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IN THE

Supreme Court of the United States

CHAMBER OF COMMERCE OF THE UNITED STATES, NATIONAL ASSOCIATION OF MANUFACTURERS, AND ASSOCIATED BUILDERS AND CONTRACTORS, INC. *et al.*,
Appellants,

v.

FEDERAL ELECTION COMMISSION *et al.*,
Appellees.

On Appeal from the United States District Court for the District of Columbia

JURISDICTIONAL STATEMENT

OF THE "BUSINESS PLAINTIFFS,"

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QUESTIONS PRESENTED

1. Whether the "electioneering communications" provisions of the Bipartisan Campaign Reform Act ("BCRA") (§§ 201, 203, 204, and 311), violate the right of business corporations and those who wish to hear their independent speech and associate with them under the First Amendment.

2. Whether the "coordination" provisions of BCRA (§§ 202 and 214) violate the First Amendment rights of business corporations and those who wish to hear their speech and associate with them.

PARTIES TO THE PROCEEDINGS

The Appellants here, Plaintiffs in two of the eleven cases consolidated in the district court, represent the interests of American business and business corporations. The Appellants are the Chamber of Commerce of the United States, the National Association of Manufacturers, and the Associated Builders and Contractors, Inc. They are referred to herein as the "Business Plaintiffs."

- The Chamber of Commerce of the United States ("Chamber") is the world's largest not-for-profit business federation. Founded in 1912, the Chamber represents over 3,000,000 businesses and business associations. The Chamber is a corporation, as are many of its members and supporters, and it is exempt from taxation under § 501(c)(6) of the Internal Revenue Code.
- The National Association of Manufacturers ("NAM") is the oldest and largest broad-based industrial trade association in the United States. Its membership comprises 14,000 companies and 350 member associations, meaning that NAM represents about 18 million individuals. Like many trade associations, NAM is incorporated and is exempt from taxation under § 501(c)(6).
- The Associated Builders and Contractors, Inc. ("ABC") represents more than 23,000 contractors and related firms in the construction industry, both unionized and non-unionized, who share the view that work should be awarded and performed on the basis of merit, regardless of labor affiliation. ABC is funded primarily by membership dues and is exempt from taxation under § 501(c)(6).*

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* The Associated Builders and Contractors Political Action Committee (ABC PAC) and the U.S. Chamber Political Action Committee (U.S. Chamber PAC) will participate in this appeal as Appellees.

The Appellees here, who collectively were Defendants in the district court, fall into two categories: the Government Defendants, comprising the Federal Election Commission ("FEC"), the Federal Communications Commission, and the United States of America; and the Intervenor Defendants, comprising Senator John McCain; Senator Russell Feingold; Representative Christopher Shays; Representative Martin Meehan; Senator Olympia Snowe; and Senator James Jeffords. They are referred to collectively herein as Defendants.

CORPORATE DISCLOSURE STATEMENT

1. The Chamber of Commerce of the United States of America is a non-profit, non-stock corporation, exempt from taxation under I.R.C. § 501(c)(6).

2. The National Association of Manufacturers is a non-profit, non-stock corporation, exempt from taxation under I.R.C. § 501(c)(6).

3. The Associated Builders and Contractors, Inc. is a non-profit, non-stock corporation, exempt from taxation under I.R.C. § 501(c)(6).

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JURISDICTION

The district court entered judgment on May 2, 2003. Appellants filed timely notice of appeal on May 7, 2003. Appellants' notice of appeal is reprinted at App. 1a-2a. This Court has jurisdiction pursuant to § 403(a)(3) of BCRA.

PERTINENT CONSTITUTIONAL AND STATUTORY PROVISIONS

1. The Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. No. 107-155, 116 Stat. 81 (2002), is reprinted at App. 22a-85a. The two provisions on which this statement focuses are the following:

Electioneering Communications

Section 201(a) of BCRA amends the Federal Election Campaign Act of 1971, 2 U.S.C. § 431 *et seq.* ("FECA") by adding the following to 2 U.S.C. § 434 as part of subsection (f):

> (3) ELECTIONEERING COMMUNICATIONS.—For purposes of this subsection—
>
> [PRIMARY DEFINITION]
>
> (A) IN GENERAL.—(i) The term "electioneering communication" means any broadcast, cable, or satellite communication which—
>
> (I) refers to a clearly identified candidate for Federal office;
>
> (II) is made within—

(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

[BACKUP DEFINITION]

(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term "electioneering communication" means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.

Coordination

Section 214(a) of BCRA amended FECA, 2 U.S.C. § 441a(a)(7)(B), by inserting after existing clause (i) and before the former clause (ii)—redesignated as clause (iii)—the following new clause (ii):

(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee; and

Section 214(b), (c), and (d) of BCRA provide as follows:

(b) REPEAL OF CURRENT REGULATIONS.—The regulations on coordinated communications paid for by persons other than candidates, authorized committees of

candidates, and party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION.—The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address—

(1) payments for the republication of campaign materials;

(2) payments for the use of a common vendor;

(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

2. The First Amendment of the United States Constitution is reprinted at App. 21a.

INTRODUCTION

The success and vitality of American business, and of the corporations by which most of America's business is conducted, are critical to the welfare and happiness of the American people and to the security and stability of our nation. Corporations are primary employers, providing jobs, salaries, healthcare, retirement, and other benefits to most Americans; they produce much of our nation's goods and wealth; and their stock and other securities are central to retirement and investment plans. Business corporations are profoundly affected by federal policy, legislation, and executive activity on a wide range of issues, ranging from tort reform to taxes, intellectual property to import controls, employment standards to environmental protection. As a result, all Americans, including American voters and government officials, as well as workers, retirees, investors, and consumers, have a vital (if not always fully appreciated) interest in hearing what corporations have to say about the key issues of the day. At the same time, American corporations have a compelling need to communicate their views and concerns to Americans, including federal and political party officials. The First Amendment's fundamental rule that "Congress shall make no law . . . abridging the freedom of speech, or the right of the people . . . to petition the Government for a redress of grievances" protects the rights of corporations to speak on public issues and of Americans generally to hear that speech. And this protection has its fullest and most urgent application to speech at election time when Americans are most focused on policy issues and are assessing candidates in light of policy positions.

The Business Plaintiffs who join in this Jurisdictional Statement—the Chamber, NAM, and ABC—are three of the major incorporated associations through which American business and business corporations communicate with Americans and American government officials. Although the Business Plaintiffs do not always concur with one another on

matters of public policy, they speak with one voice—and in concord with such non-traditional allies as the AFL-CIO—in urging this Court to strike down portions of BCRA that directly violate their ability to speak, associate, and petition for policy purposes.

First, BCRA's so-called "electioneering communication" provisions should be reviewed and struck down in their entirety, and this Court should reaffirm its holdings that the "express advocacy" standard limits the scope of speech that may be restricted by campaign finance legislation, as well as fixing the clarity and precision with which any such standard must be defined. The district court properly rejected BCRA's Primary Definition of "electioneering" that would broadly forbid any corporation or union to broadcast any reference to a candidate during the 30 days before a federal nominating event or the 60 days before a federal election.[1] But it erroneously crafted an overbroad and vague Backup Definition under which corporations and unions may never spend treasury funds to broadcast any statement that may be deemed to "promote or support" or "attack or oppose" a candidate for federal office.

The Backup Definition, created by District Judge Leon with the concurrence of District Judge Kollar-Kotelly by deleting key narrowing language, was not and would not have been authorized by Congress. And, in his May 19, 2003, opinion on the stay applications, even Judge Leon now recognizes that the standard he crafted fails to provide the "guidance" that the First Amendment requires, though he hopes that the FEC someday may save it by adopting

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[1] In the case of candidates for Congress, a candidate could be mentioned if the speaker were assured that the broadcast could not be received by 50,000 persons in the relevant district or state. As to presidential candidates, the ban was nationwide and continued throughout the nominating year, beginning thirty days before the Iowa caucus in January.

clarifying regulations. But most fundamentally, by regulating speech that does not contain explicit words that expressly advocate the election or defeat of clearly identified candidates, the backup standard is constitutionally overbroad under this Court's holdings in *Buckley v. Valeo*, 424 U.S. 1 (1976), and *FEC v. Massachusetts Citizens for Life, Inc.*, 479 U.S. 238 (1986) ("*MCFL*").

Second, the Court should review and strike down BCRA's overbroad and vague provision that speech may be deemed "coordinated" with a candidate, campaign, or political party, and hence condemned as an unlawful contribution, *even if there is no "agreement or formal collaboration" with the candidate concerning the speech.*

A narrow and clear definition of coordination is vital because the Business Plaintiffs and their policy allies—as well as many other participants in the federal legislative and policy process—meet almost daily with members of Congress and other federal and political party officials to develop policy initiatives and strategies, often on a long-term basis. Most members of Congress are candidates during most of their tenure, and many will become publicly identified with the issues they advance. If coordination can be alleged and found on something less than agreement, or if the standard otherwise is vague, the Business Plaintiffs will be forced to choose between associational activities that are essential to effective policy making and their core right to speak freely to the public on issues of public concern. This problem has bite right now because dealings with legislators, officers, or political parties today may foreclose speech in months to come. *Because the Business Plaintiffs must decide now and on an ongoing day-to-day and minute-to-minute basis which contacts and discussions to engage in, they are constitutionally entitled to a narrow and clear standard of coordination that requires an element of agreement.*

STATEMENT OF THE CASE

Legal Background

In *Buckley v. Valeo* this Court held that campaign finance regulation is constitutionally confined to a narrow category of speech that employs explicit words such as "vote for" or "support" to expressly advocate the election or defeat of clearly identified candidates. 424 U.S. at 43-44, 79-80. Any attempt by campaign finance statutes to reach beyond such explicit and express advocacy to less pointed discussions of issues and candidates is constitutionally overbroad and forbidden. *Id.* at 42. Also forbidden in this area of exceptional First Amendment sensitivity is any standard enforced by criminal sanction that fails to provide objective, bright-line guidance as to what is permitted and what is forbidden. *Id.* at 41. These holdings were expressly reaffirmed in *MCFL*, and have been uniformly understood by the U.S. courts of appeals to set First Amendment standards that limit federal and state campaign finance law and regulation.[2]

Those who value regulation above freedom repeatedly have asserted that *Buckley* and *MCFL* did not understand, and could not have intended, the speech that would be unregulated under the express advocacy standard. But *Buckley* stressed that it did not "naively underestimate the ingenuity and resourcefulness" of persons subject to campaign finance regulation. *Id.* at 45. It simply was not willing to open a large or ill-defined loophole in the core prohibitions of the First Amendment. Accordingly, *Buckley* made explicit that: "So long as persons and groups eschew expenditures that in express terms advocate the election or defeat of a clearly identified candidate, they are free to spend as much as they want to promote the candidate and his views." *Id.* at 45.

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[2] *See Chamber of Commerce of the United States v. Moore*, 288 F.3d 187 (5th Cir. 2002), *cert. denied*, 123 S. Ct. 536 (2002) (collecting authority).

Reassured by this Court's explicit recognition of their First Amendment right to independent advocacy, and limited in other avenues of speech and association, Americans of all points of view increasingly began to speak out about issues and candidates during the periodic intervals when public policy and officials are of greatest public interest – election season. Distressed by this robust and uninhibited public discussion, which often questioned the policies of incumbents and advanced the views of historically under funded challengers, Congress moved to suppress as much such activity as possible through the complex provisions of BCRA. This Statement focuses on two areas that BCRA regulates: "electioneering communications" and "coordination."

BCRA's Electioneering Communications Provisions

In BCRA Congress sought to expand the scope of regulated speech far beyond express advocacy to so-called "sham issue ads," by creating and defining a new concept—"electioneering communications." BCRA's Primary Definition of electioneering communication included any broadcast speech occurring 30 days before a nominating event or 60 days before an election that "refers to a clearly identified candidate for federal office," provided that if the communication refers to a congressional candidate, it "can be received by 50,000 or more persons" in the district or state to be represented. BCRA § 201(a). References to a candidate for President or Vice-President were included as electioneering communications without regard to who or how many persons could receive them. Other provisions of BCRA then restricted electioneering communications in various ways. BCRA §§ 201, 202, 204. For example, corporations and unions were flatly forbidden to spend their treasury funds for any electioneering communication. BCRA § 203.

The Primary Definition of electioneering communication was sweeping and Draconian. If an incumbent President who was seeking reelection moved to nationalize the steel mills or

seize the railroads or take over the nation's docks during an election year, the affected corporations and unions could not lawfully make any broadcast that referred to the President. Similarly, members of Congress would be shielded from any broadcast reference during much of any year in which they sought reelection or election to other federal office. And, ironically, during critical periods corporations could not have referred to the very bills that sought to curtail their First Amendment freedoms since the bills' popular names, "McCain-Feingold" and "Shays-Meehan," refer to candidates.

Aware that the Primary Definition was highly problematic, Congress took the extraordinary step of enacting a "Backup Definition." It provided that if the Primary Definition "is held to be constitutionally insufficient by final judicial decision," then electioneering communication means

> any broadcast, cable, or satellite communication which promotes or supports a candidate for office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate.

BCRA § 201(a). The Backup Definition explicitly rejects the express advocacy test adopted in *Buckley*. It does not depend on who receives the speech or when it occurs except to the extent that shifting circumstances may affect the judgment of whether the speech "promotes or supports" or "attacks or opposes" a candidate.

A majority of the three-judge court held that the Primary Definition was constitutionally overbroad and invalid. Per Curiam, Supp. App. 6sa. Judge Kollar-Kotelly disagreed. *Id.* Defendants have appealed that ruling and the Business Plaintiffs will defend it, but it is not the subject of this Statement.

The district court's treatment of the Backup Definition was more complex. Judge Henderson flatly rejected it; Judge

Kollar-Kotelly embraced it without separate comment; and Judge Leon initially held that part could be severed and saved so that any speech that "promotes or supports" or "attacks or opposes" a Federal candidate is restricted. Henderson, J., Supp. App. 362sa; Kollar-Kotelly, J., Supp. App. 885sa-86sa; Leon, J., Supp. App. 1154sa-66sa. However, on May 19, in ruling on various motions for stay, Judge Leon acknowledged that the words "promote," "support," "attack," and "oppose" in the Backup Definition do not provide sufficient "guidance" for speakers. *See* App. 19a. He said that the fault lay with the FEC, which had not adopted regulations to define those terms. *Id.*

BCRA's Coordination Provision

BCRA's second strategy for reducing speech about issues and candidates was to alter and expand FECA's provisions relating to "coordination." BCRA § 214(a) imposed a new substantive ban on coordination with political parties, as well as with candidates and campaigns. BCRA §§ 214(b) and (c) rejected a narrowing construction that a thoughtful U.S. District Court opinion had held to be constitutionally required, *FEC v. Christian Coalition*, 52 F. Supp. 2d 45 (D.D.C. 1999), and that the FEC had ratified by regulation. *See* 65 Fed. Reg. 76,146 (Dec. 6, 2000) (formerly codified at 11 C.F.R. § 100.23). The combined effect of the three clauses of § 214 was to resurrect and intensify the constitutional issues that had seemed to be well on their way to resolution.

A summary of the history of the coordination concept is useful. Under FECA, spending for speech that was "coordinated" with a candidate or campaign was deemed a regulated "contribution" to the campaign. 2 U.S.C. § 441a(a)(7)(B)(i). Some speakers, such as individuals and PACs, could make limited contributions and others, such as corporations and labor unions, were forbidden to make any contribution at all. 2 U.S.C. §§ 441a(a)(1), (2); 441b(a). However, the cost of creating and broadcasting a meaningful

ad typically would exceed most applicable contribution limits (excluding those of political parties). Thus, a charge of spending for coordinated speech translated directly into a charge of making unlawful criminal contributions.

Such charges have proved easy to make and hard to dispel. Our democratic system of government requires persons active in shaping public policy and legislation to have ongoing contact with members of Congress (most of whom are candidates for reelection), as well as other candidates for federal office and their political parties. For example, the Business Plaintiffs and thousands of similar groups had (and have) daily contacts with candidates or party representatives in a wide range of circumstances.

Because coordination was not narrowly, objectively, and precisely defined, persons and groups who sometimes speak on public issues faced a dilemma. They had to either (i) curtail communication and strategizing with those who shape public policy and legislation to preserve their right to speak freely, or (ii) curtail speech on issues or candidates that a policy critic, political opponent, or skeptical government enforcer might assert to be coordinated. Obviously, chilling contacts with federal officers interfered with fundamental First Amendment rights to petition, associate, and speak. And, chilling independent speech about public issues and candidates (subject to restrictions on express advocacy by corporations and labor unions) also strikes at the heart of the First Amendment. *See Buckley*, 424 U.S. at 41-47; *Colo. Republican Fed. Campaign Comm. v. FEC*, 518 U.S. 604, 616 (1996).

Matters came to a head in the late 1990s with a series of FEC enforcement actions directed at supposedly coordinated speech. For example, the FEC launched a massive proceeding against a group of pro-business associations, including the Business Plaintiffs, known as The Coalition who had joined together to respond to a $35 million ad campaign by the AFL-CIO. *See generally* Henderson, J., Supp. App. 281sa-84sa.

After years of litigation, the U.S. district court for the District of Columbia in *Christian Coalition* ruled that, under the principles of *Buckley*, coordination had to be narrowly defined to require an element of agreement or formal coordination. The FEC elected not to appeal and, instead, promulgated regulations to codify the district court's constitutional holding. *See* 65 Fed. Reg. 76,146 (Dec. 6, 2000) (formerly codified at 11 C.F.R. § 100.23). Based on the narrowed and clarified definition of coordination, the FEC then terminated its proceeding against The Coalition, as well as a parallel proceeding against the AFL-CIO.[3]

BCRA sought to expand the restrictions on coordination in two ways. First, § 214(a) of BCRA added a new provision under which expenditures coordinated with a "national, State, or local committee of a political party, shall be considered contributions made to such party." Because other provisions of BCRA and FECA forbid corporate and labor union contributions to such political committees, this provision makes problematic any contacts, discussions, or information exchanges with representatives of political party committees, including most of the leadership in Congress.

Second, § 214(b) and (c) of BCRA repealed the FEC's coordination regulations that had been enacted to codify the constitutional holding that agreement is required, ordering the FEC to adopt new regulations that "shall not require agreement or formal collaboration to establish coordination."

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[3] The district court opinions of Judges Kollar-Kotelly and Leon contain findings dealing not with the question of whether the activities of The Coalition were coordinated with candidates but, instead, with whether the ads of The Coalition had the subjective purpose of influencing the election or defeat of candidates. Many of these findings rest on a report of the FEC General Counsel that was compiled without the participation of The Coalition, based on information that was not disclosed to The Coalition, and that was not itself adopted by the Commission. At an appropriate time, the Business Plaintiffs will respond to those findings, demonstrating that they are factually and legally unfounded.

However, the statutory provisions under which spending for speech that is coordinated with a candidate, campaign, and now with a party, is deemed a contribution remain self-enforcing, whether or not regulations are adopted. In fact, new FEC regulations took effect after this case had been submitted and, indeed, after the date that the district court had indicated its opinion would issue. Per Curiam, Supp. App. 155sa (discussing 60 day congressional review period). The new regulations do not require agreement or formal collaboration to establish coordination.

These changes raised two related but distinct issues: overbreadth and vagueness. All of the judges reached the merits of the overbreadth issue, but they differed on its resolution. Judge Henderson concluded that, in the absence of an agreement of some kind with a candidate, campaign, or party, there is no basis for depriving independent speech of its independent status. Henderson, J., Supp. App. 393sa-96sa. Thus, she held that the coordination provisions were overbroad. Henderson, J., Supp. App. 396sa. Judges Leon and Kollar-Kotelly, however, believed that other factors, such as a candidate's unilateral suggestion or concern expressed during consultation, would mean that a candidate would value independent speech to such an extent that it could be regulated as a contribution. Per Curiam, Supp. App. 141sa-43sa.

Finding the coordination provisions overbroad, Judge Henderson had no need to focus on the issue of vagueness. But Judges Leon and Kollar-Kotelly did have to deal with that issue. They agreed that the First Amendment compels a clear definition of coordination. However, they said that the FEC's new coordination regulations might provide such clarity, and they ruled that BCRA § 403(a) did not give them jurisdiction to examine those regulations. Per Curiam, Supp. App. 137sa-38sa, 155sa-56sa.[4] Thus, they held that the

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[4] The objection of Judges Leon and Kollar-Kotelly was that they lacked jurisdiction to evaluate the FEC coordination regulations. Accordingly,

vagueness issue was non-justiciable until the Business Plaintiffs first pursue a challenge to the FEC's new regulations before a single district judge under the Administrative Procedure Act. *Id.*

Judges Leon and Kollar-Kotelly did not explain why the jurisdiction over an entire "action" granted by BCRA § 403(a) does not permit the court to evaluate the meaning or validity of regulations that are offered as a defense to a claim that a provision of BCRA is overbroad or vague. They did not discuss the practical fact that, because BCRA § 403 gives the special court it creates the *exclusive* power to entertain constitutional challenges to the statute, a judge in an APA action could not even grant preliminary relief against the coordination provisions of the BCRA. Nor did they explain how their refusal to decide this issue conforms to BCRA § 403's command that the constitutional issues be resolved as quickly as possible. Judge Henderson, by contrast, correctly ruled that "piecemeal and delayed review of [Plaintiffs'] constitutional claims [concerning coordination] would defeat BCRA's mandate that judicial consideration of such claims 'shall be . . . expedite[d] to the greatest possible extent.'" Henderson, J., Supp. App. 396sa.

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they raised no issue about the adequacy of the briefing, nor did they request any supplemental briefing regarding the newly promulgated regulations. They also suggested that the FEC's advisory opinion process negated ripeness. Per Curiam, Supp. App. 138sa.

The FEC is allowed up to 60 days to respond to an advisory opinion request. 2 U.S.C. § 437f(a)(1). An expedited 20-day response time is provided for if the advisory opinion request is made within 60 days of an election. *Id.* § 437f(a)(2). However, this expedited process is only available to candidates, and unavailable to the entities that are regulated by the electioneering communication provision. At the same time, issue ads are crafted and revised to speak to the moment. It is not unusual for revisions to be made during final taping or editing within hours of airing the ads.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

The two issues that the Business Plaintiffs present—the constitutionality of the judicially modified and expanded Backup Definition of electioneering communication and of the coordination provisions—lie at the heart of BCRA. The fundamental disagreements among the three district court judges as to both issues are powerful evidence that they are substantial, as is the district court's decision to stay all of those rulings pending review by this Court. Indeed, Congress demanded such a special court, provided for expedited litigation and appeal procedures, and adopted a Backup Definition of electioneering communication, precisely because it knew that BCRA was in serious tension with the constitutional holdings of this Court.

I. BCRA'S ATTEMPT TO RESTRICT BUSINESS CORPORATIONS' PUBLIC DISCUSSION OF ISSUES AND CANDIDATES THAT DOES NOT USE EXPLICIT WORDS TO EXPRESSLY ADVOCATE THE ELECTION OR DEFEAT OF A CLEARLY IDENTIFIED FEDERAL CANDIDATE VIOLATES THE FIRST AMENDMENT.

Both the Primary and Backup Definitions of electioneering communication seek to impose campaign finance regulation on independent speech that does *not* use explicit words to expressly advocate the election or defeat of a clearly identified federal candidate. Both definitions rest on the false premise that *Buckley* and *MCFL* imposed the express advocacy standard only to cure vagueness and not to protect issue advocacy from impermissible regulation. This is wishful thinking. In fact, both opinions held that, in our democracy, speech about issues and candidates cannot be suppressed unless its explicit wording expressly advocates an electoral outcome.

But even if Congress theoretically could enact a sufficiently clear alternative to the express advocacy standard,

the judicially modified and expanded Backup Definition crafted by Judge Leon with the acquiescence of Judge Kollar-Kotelly cannot stand. To begin with, there is no authority for the courts to broaden speech regulation to cure ambiguity; the practice is to narrow so that what is restricted is within Congress's intent. *See, e.g., United States v. Albertini*, 472 U.S. 675, 680 (1985) (narrowing must not "trench upon the legislative powers"); *CFTC v. Schor*, 478 U.S. 833, 841 (1986) (narrowing does not allow "perverting the purpose of a statute"). Certainly, broadening is not proper where, as here, Congress specifically indicated that one or the other of two alternative standards should be employed, and that is even truer where, as here, the judicially eliminated language was the heart of the provision. But beyond that, the broadening construction adopted by Judges Leon and Kollar-Kotelly does not solve the vagueness problem. To the contrary, Judge Leon himself recognized in his stay opinion that words such as "promote," "support," "attack," and "oppose" do not provide the "guidance" that the First Amendment requires. *See* App. 19a.

In sum, there are substantial reasons for rejecting the entire concept of regulating electioneering communications and for rejecting the broadening construction of the Backup Definition adopted by the district court here.

A. *Buckley* Holds That Campaign Finance Regulation Cannot Regulate Discussions Of Issues And Candidates That Do Not Contain Express Advocacy.

Buckley analyzed two statutory provisions for narrow tailoring and clarity. The first provision regulated speech "relative to" a candidate. 424 U.S. at 41-43. The Court found that other portions of the FECA narrowed the "relative to" phrase to speech "advocating the election or defeat of a candidate." *Id.* at 42. But that was not a constitutionally adequate standard, both because of vagueness and because

"the distinction between discussions of issues and candidates and advocacy of election or defeat of candidates may often dissolve in practical application," so that "discussions of issues and candidates" might be burdened. *Id.* *Buckley* held that these "constitutional deficiencies" could be avoided "only by reading [relative to] as limited to communications that include explicit words of advocacy of election or defeat of a candidate." *Id.* at 43-44. In other words, the express advocacy standard was adopted to avoid burdening what we now call "issue ads."

The second phrase analyzed by *Buckley* was "for the purpose of . . . influencing" the nomination or election of a candidate. *Id.* at 79. Like the first provision, this phrase had the "potential for encompassing both issue discussion and advocacy of a political result." *Id.* at 79. But *Buckley* already had ruled that speech short of express advocacy may not be subjected to campaign finance regulation. Accordingly, "[t]o insure that the reach of [the phrase] is not *impermissibly broad*," this Court construed it to reach only express advocacy. *Id.* at 79-80 (emphasis added).

MCFL confirmed that the express advocacy sets the permissible scope of speech restrictions in campaign finance statutes. Justice Brennan, who had some familiarity with *Buckley*, explained for the Court that the express advocacy standard was adopted "to avoid problems of overbreadth." 479 U.S. at 248. It achieved this objective, as well as curing vagueness, by preventing regulation of discussion of issues and candidates that did not employ explicit words of express advocacy. *Id.* at 248-49.

The U.S. courts of appeals uniformly have understood *Buckley* and *MCFL* to set the constitutional limits of campaign finance regulation, rather than merely one way to clarify particular statutory language. Most recently in *Chamber of Commerce of the United States v. Moore*, the Court of Appeals for the Fifth Circuit stressed "*Buckley*'s emphasis on

(1) the need for a bright-line rule demarcating the government's authority to regulate speech and (2) the need to ensure that regulation does not impinge on protected issue advocacy." 288 F.3d at 193.

Because the Primary and Backup Definitions, however construed, subject fully protected speech to such regulation, the entire electioneering communications concept should be struck down.

B. The Broadening Construction Imposed On The Backup Definition Of Electioneering Communication Was Not A Permissible Or Effective Cure For The Provision's Vagueness.

Once the district court majority struck down the Primary Definition of electioneering communication, they had to confront the Backup Definition, which encompassed speech that "promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate." BCRA § 201(a). Judge Leon agreed with Judge Henderson that, as written, the Backup Definition was invalid. Per Curiam, Supp. App. 6sa. However, he attributed this invalidity to vagueness in the final clause which narrowed the definition to speech which also is "suggestive of no plausible meaning other than an exhortation to vote" for or against a specific candidate. Leon, J., Supp. App. 1164sa-66sa. Judge Leon decided to sever that provision, thus *broadening* the Backup Definition to restrict all speech that "supports," "promotes," "opposes," or "attacks" a candidate for federal office. *Id.* That holding was mistaken on many grounds. First, as discussed above, there is no authority for curing vagueness by broadening a speech restriction Congress intended to be more narrow. Nor is it

permissible to sever the heart of a provision and leave peripheral matters standing. Yet this is what occurred here.

The backup definition originated with Senator Specter, who introduced it on the floor of the Senate. 147 Cong. Rec. S2704 (daily ed. Mar. 22, 2001). He explained that Congress should respect the constitutional holdings of the federal courts, and that the only federal appellate opinion to interpret *Buckley* to reach speech that lacked explicit words of advocacy was, in his view, the Ninth Circuit's opinion in *FEC v. Furgatch*, 807 F.2d 857 (9th Cir. 1987). *Id.* at S2706. He construed *Furgatch*, with some support from its text, to permit regulation of speech that lacked explicit words of express advocacy, but that suggested no other plausible meaning but an exhortation to vote in a particular way. *Id.* He said that his amendment "would take the Furgatch language and add it as an additional definition." *Id.* During the subsequent debates, he repeatedly referred to what became the Backup Definition as the *Furgatch* standard, *e.g.*, *id.* at S2707-08, S2710, S2712-13, and stressed his view that the proviso was what made the Backup Definition constitutionally precise. *Id.* This debate expressly addressed the issue of severability. Senator Spector explained; "we have Snow-Jeffords [the Primary Definition], or Furgatch, and if one of them measures up, then the statute survives." *Id.* at S2713. At no point did he or any other Senator ever place any weight on the "support," "promote," "oppose," or "attack" language that the district court proposes to impose as the entire definition or suggest that they desired any such standard in the absence of the *Furgatch* language.

Moreover, the severed judgment is even more vague than the full Backup Definition, requiring speakers to predict whether speech will be perceived to "support" or "oppose" a candidate. Consider, for example, the statement that "Candidate X voted to support the war in Iraq." In some circles that may be high praise; in other circles it may be a serious attack. Moreover, the perception of that statement might vary

sharply with rapidly developing external circumstances. On days when the matters in Iraq were going well, the statement might be perceived differently than on days when a severe sandstorm and concerns about extended supply lines dominated the news. The whole point of *Buckley*'s demand for explicit words of express advocacy was to provide an objective standard independent of circumstances or listener perceptions. Thus, in his opinion concerning a stay, Judge Leon belatedly acknowledged that his broadened Backup Definition does not provide the "guidance" that the First Amendment requires, though he expressed the hope that future FEC regulations might cure the problem. *See* App. 19a.

Judge Leon's suggestion that speakers avoid uncertainty by not referring to candidates, Leon, J., Supp. App. 1166sa, proposes the injury for which vagueness is condemned. No doubt this practical consideration was behind Judge Leon's belated recognition that, in fact, the modified Backup Definition is unconstitutionally vague and should not be given effect.

II. BCRA'S OVERBROAD AND VAGUE COORDINATION PROVISIONS ARE INFLICTING FIRST AMENDMENT HARM THAT MUST BE REMEDIED NOW.

The district court's divided ruling concerning BCRA's "coordination" provisions also presents a substantial issue for review. The dispute is not over the basic concept. No one questions that spending may be sufficiently coordinated with a candidate, campaign, or party, that it functions as a contribution and, hence, should count against contribution limits. *Buckley* so held. 424 U.S. at 46. Instead, the key dispute is over how broadly the coordination net may reach without impermissibly burdening core First Amendment rights to speak, petition, and associate. A related but distinct dispute is the extent to which BCRA § 403 permits an evaluation of FEC regulations that are offered in defense of a provision that

is alleged to be unconstitutionally vague. Defendants clearly perceived the coordination issue as substantial and directed a great deal of their discovery efforts to exploring when and how possible coordinating contacts occur.

All members of the district court agreed that the First Amendment requires that coordination be narrowly and precisely defined. As to whether the BCRA's definition is overbroad, the judges disagreed. Judge Henderson concluded that BCRA's coordination provisions were unconstitutionally overbroad because they permitted coordination to be established without the constitutionally essential element of agreement. Henderson, J., Supp. App. 393sa-94sa. She also held overbroad the provision that mere "consultation" without agreement could establish coordination. Hendeson, J., Supp. App. 394sa-96sa. Accordingly, she did not focus on the issue of vagueness.

Judges Leon and Kollar-Kotelly disagreed that the First Amendment requires that coordination be based on an element of agreement or that mere consultation could not be an adequate basis for finding coordination. Per Curiam, Supp. App. 138sa-43sa. They took the view that, if other factors showed that a candidate or political party highly valued independent speech, it could be regulated as a contribution even if there were no element of agreement. Per Curiam, Supp. App. 141sa-43sa. They further ruled that Plaintiffs' *vagueness* challenge was not justiciable since the FEC had promulgated regulations dealing with coordination and, in their view, BCRA § 403(a) did not give them jurisdiction to evaluate those regulations. Per Curiam, Supp. App. 137sa-38sa, 155sa-56sa.

Simply stated, Judge Henderson was right to reach and decide the matter by holding the coordination provisions to be unconstitutional. Only an element of agreement can convert independent speech into a contribution. Alternatively, BCRA § 403(a) gives the Court adequate authority to examine the

new FEC regulations and determine whether they are sufficient to cure the vagueness challenge.

A. Before BCRA, The FEC And The Courts Had Correctly Recognized That Preservation Of Core First Amendment Values Required That Coordination Be Construed To Require An Element Of Agreement.

As "issue ads" became more common during the 1990s, so did charges that the ads had been coordinated with candidates or campaigns so that spending on the ads would constitute unlawful contributions. Because only political parties had contribution limits high enough to finance meaningful speech —individuals were limited to $1,000 and corporations and labor unions were not allowed to contribute at all—such charges were potent weapons.

The basic problem was, and is, that in our democratic system, government and policy is developed through ongoing contact and cooperation with legislators, most of whom are candidates most of the time, executive officials serving the President and Vice-President who often are candidates, and political party representatives. Through this process public needs are identified, possible solutions are formulated, laws and regulations are drafted and critiqued, and advocacy strategies are devised and implemented. Ad hoc alliances and coalitions are formed to pursue shared objectives. The process can take years, or even decades, during which repeated elections will occur. This entire process involves speech, association, and petitioning activities that are at the core of the First Amendment.

Participants in this process also have and often exercise their right to speak publicly about issues and candidates. Not surprisingly, they often talk about the issues that they have been pursuing through the processes just described. And the natural and most effective time for such public speech is

when Americans otherwise are focused on issues of public policy and governance—during election campaigns.

The FECA provided that any speech made "in cooperation, consultation, or concert with, or at the request or suggestion of" a candidate or campaign was deemed coordinated. 2 U.S.C. § 441a(a)(7)(B)(i). For most of the 1990's, no judicial decision or FEC regulations imposed a narrowing construction, and FEC statements suggested an expansive reading. As a result, during the mid- to late-1990s, the FEC pursued a number of massive enforcement proceedings based on broad constructions of coordination.

One of these coordination-based proceedings was MUR 4624, in which the FEC targeted "The Coalition," an ad hoc group of pro-business interests, including the Business Plaintiffs, that raised and spent about $5 million during 1996 to produce and broadcast ads responding to a $35 million ad campaign of the AFL-CIO. *See generally* Henderson, J., Supp. App. 281sa-84sa. The complaint premised the charge of coordination on press reports that a Congressman had given a public speech saying that the business community should find some way to respond to the AFL-CIO and on the fact that representatives of the Business Plaintiffs and similar groups met regularly with members of Congress, including the one who gave the speech, in the Thursday Group to strategize in support of the legislative agenda popularly known as the Contract with America. In that proceeding, hundreds of thousands of sensitive documents were demanded, dozens of intrusive depositions were taken, and significant legal expenses were incurred.

In *Colorado Republican Federal Campaign Committee v. FEC*, this Court said that "simply calling an independent expenditure a 'coordinated expenditure' cannot (for constitutional purposes) make it one," 518 U.S. at 621-22, and that speech *not* made "pursuant to any particular or general understanding with a candidate" was *not* coordinated, *id.* U.S. at 614, though the latter point was not developed. The

constitutional issues raised by FECA's broad coordination provision first received full judicial consideration in *FEC v. Christian Coalition*. Drawing on *Buckley* and related cases, the district court held that the right to spend money on one's own speech could be classified and limited as a contribution only if there was sufficient agreement with a candidate or campaign that the speech actually functioned as a contribution. 52 F. Supp. 2d at 83-92.

The FEC acquiesced in the *Christian Coalition* narrowing construction and issued regulations to codify it. 65 Fed. Reg. 76,146 (Dec. 6, 2000) (formerly codified at 11 C.F.R. § 100.23). Then, because neither the complaint against The Coalition nor its massive investigation disclosed any agreement between The Coalition and any candidate or campaign, the FEC dismissed the complaint, closing that proceeding and other similar proceedings. The burdens of the investigation, including the intrusiveness of the inquiry as well as the cost and disruption, had led members to withdraw their support, and The Coalition closed down. Henderson, J., Supp. App. 284sa. However, the FEC's recognition that an element of agreement is necessary to transform independent speech into a contribution was a useful and important step in narrowing and clarifying the coordination provisions.

B. By Rejecting The Constitutionally Mandated Requirement That Some Agreement Exist To Justify Treating Otherwise Independent Spending As A Contribution, BCRA's Coordination Provisions Violate The First Amendment.

BCRA §§ 202 and 214 attempt to classify spending on independent speech, which cannot constitutionally be limited, as contributions, which are tightly limited, in the absence of the agreement necessary to justify that result. This broadened definition of coordination applies both to FECA's limitation on candidate contributions and BCRA's new limitation on

coordination with political parties, even where no candidate is involved.[5]

Section 214(a) pointedly defines "coordination" with a political party by using the same language—"cooperation, consultation, or concert with, or at the request or suggestion of"—that FECA had used with respect to candidates and campaigns and that *Christian Coalition* had held unconstitutionally overbroad and vague. To underscore the insistence on the broad statutory definition of coordination, rather than the narrowing construction adopted in *Christian Coalition* and written into the FEC's regulations, § 214(b) repeals those regulations. And lest there be any thought that the broad statutory definition might again be construed to require agreement, § 214(c) specifies that any new FEC regulations "shall not require agreement or formal collaboration to establish coordination."

Settled principles require that these related clauses be understood as a whole. *Pilot Life Ins. Co. v. Dedeaux*, 481 U.S. 41, 51 (1987). Taken together, they reject the narrowing construction of "coordination" adopted by *Christian Coalition* and the FEC regulations based on that construction and reaffirm that coordination extends to any speech "in cooperation, consultation, or concert with, or at the request or suggestion of" a candidate or campaign, *whether or not there is any agreement*. Moreover, because § 214(c) also rules out

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[5] Section 202(a) provides that spending on an "electioneering communication" may be coordinated. The reason for so specifying is that it is obvious that not all spending coordinated with a candidate is the functional equivalent of a contribution. For example, a member of Congress who technically is a candidate may support a local library fund, and other fund supporters may coordinate speech saying "Give to the Library." There is a strong view, most forcefully advocated by FEC Commissioner Smith, that coordinated spending on speech may be deemed a contribution to a campaign only if the speech contains express advocacy. Statement For The Record By Commissioner Bradley A. Smith In FEC MUR 4624 (Nov. 6, 2001) (available from the FEC's public file).

"*formal* collaboration" (emphasis added) as a standard, its failure to apply any similar limiting term to "agreement" shows that the term is used comprehensively. No element of agreement, formal or informal, express or implied, can be required. Instead, the standard is acting in "cooperation, consultation, or concert with," or at "the request or suggestion of" a candidate, campaign, or political party.

All three members of the district court reached the overbreadth issue. The majority concluded that excluding agreement did not create overbreadth. Per Curiam, Supp. App. 138sa-43sa. However, Judge Henderson correctly concluded that BCRA's overbreadth violates the First Amendment. Henderson, J., Supp. App. 390sa (BCRA's coordination provisions are overbroad because "many of the expenditures BCRA defines as 'coordinated' are not 'disguised contributions'"). If speech is not the product of some agreement with a candidate, campaign, or party, then it is not functionally a contribution. The speech is independent and cannot constitutionally be limited. *Id.* Nor can mere "consultation," so long as it does not rise to the level of agreement, convert fully protected independent speech into a functional contribution. Henderson, J., Supp. App. 387sa-91sa. The same reasoning would apply to a mere "suggestion" that does not lead to some element of agreement. Because of this plain and congressionally mandated overbreadth without regard to vagueness, BCRA's coordination provisions are unconstitutional.

C. The Vagueness Challenge Is Justiciable.

Because First Amendment values are so important, the courts strain to find that arguable First Amendment claims are justiciable. 13A Charles A. Wright et al., *Federal Practice and Procedure* § 3532.3 (2d ed. 1984). That policy applies with special force where, as here, the violations involve the basic processes by which our democracy functions, our laws are formed, and our leaders are selected. Recognizing as much, BCRA § 403(a) directs the court to "expedite to the

greatest possible extent" the resolution of any action "to challenge the constitutionality of any provision" of BCRA. Thus, if such a challenge meets the constitutional minima for exercise of the judicial power, it should be held justiciable.

The basic constitutional requirement for exercise of the judicial power is a genuine case or controversy presented by a plaintiff with standing. *Vt. Agency of Natural Res. v. United States ex rel. Stevens*, 529 U.S. 765, 771 (2000). Those requirements are met here. Moreover, to the extent that prudential ripeness concerns apply here, a pre-enforcement challenge to a statute is ripe where it is justified by the "hardship to the parties of withholding [judicial] consideration," or where further agency action will not affect the dispositive statutory analysis. *Abbott Labs. v. Gardner*, 387 U.S. 136, 149 (1967). In this case an injured Plaintiff presents a clear controversy, considerations of hardship mandate a decision now, and Defendants have not shown that the FEC regulations cure the vagueness of the coordination provision.

1. *The Business Plaintiffs And Thousands Of Other Similar Entities Are Suffering Immediate And Ongoing First Amendment Injury.*

BCRA's vague and overbroad definition of coordination has bite right now because the Business Plaintiffs and thousands of similar entities deal with members of Congress, government officials, and representatives of political parties on a daily basis. Henderson, J., Supp. App. 395sa. Similarly, the Business Plaintiffs and other similar entities regularly participate in funding independent speech on issues of concern to them. Leon, J., Supp. App. 1363sa-77sa (examples of "genuine" issue ads during pre-election periods). As each potential contact with a candidate, campaign, or party official arises, the Business Plaintiffs must decide whether to proceed with the contact and accept resulting limits on future speech

or to decline the contact to preserve future speech rights. Either way, core First Amendment rights are at stake.

Judges Leon and Kollar-Kotelly do not deny the dilemma but say that they see no reason why it is more acute now than before. Per Curiam, Supp. App. 135sa-36sa. In part they are right. The situation created by BCRA does resemble the situation during the 1990s, though it is worse because (i) the concept of coordination now also applies to political parties and "electioneering communications," and (ii) the Business Plaintiffs then at least had the argument that agreement is an essential element of coordination, an argument BCRA rejects. *More fundamentally, however, the vague and overbroad standard that prevailed in the 1990s caused serious injury to the Business Plaintiffs, and the threat of similar injury is chilling First Amendment activity now.* Henderson, J., Supp. App. 395sa; Leon, J., Supp. App. 1363sa-77sa (examples of ongoing issue speech).

2. *The FEC's Regulations Do Not Prevent Review.*

Nearly 10 months after the complaints were filed, the FEC issued regulations defining BCRA's concept of "coordination." Per Curiam, Supp. App. 155sa. Nearly 2 months after the case was submitted—and after the Court had indicated it would issue its ruling—those regulations became final. *Id.* District Judges Leon and Kollar-Kotelly then ruled that the vagueness challenges were non-justiciable because the regulations theoretically might have provided a cure and BCRA § 403(a) did not allow them to evaluate the regulations to determine whether or not that had occurred. Per Curiam, Supp. App. 137sa-38sa, 155sa-56sa. That was error.

Defendants' claim that the new regulations cure the obvious facial vagueness of the coordination provisions is a matter of defense that can and should be resolved in this action. BCRA § 403(a) gives the three-judge district court jurisdiction of any "action" brought to "challenge the con-

stitutionality of any provision" of BCRA. Surely the power to decide such an action includes the power to evaluate defenses offered in opposition to a constitutional challenge to a provision of BCRA. Indeed, under *United Mine Workers v. Gibbs*, 383 U.S. 715, 725 (1966), a grant of jurisdiction generally encompasses all logically related components of a dispute.

Thus, there is no basis for the ruling that the regulations can only be evaluated in a proceeding before a single judge under the Administrative Procedure Act. Moreover, such a proceeding would be seriously impractical. Because BCRA § 403(a) assigns exclusive jurisdiction over such issues to a three-judge court, a single judge court could not consider the validity of the statute. Thus, the validity of the regulations would have to be fully litigated first, and then a separate action would have to be brought to challenge the statute. What would happen if new regulations were adopted while the second statutory challenge was under way is anyone's guess, but clearly the situation would be unfair and impractical. More importantly, it is contrary to the command of BCRA § 403(a) that constitutional challenges to the statute be resolved swiftly. Henderson, J., Supp. App. 397sa.[6]

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[6] The Per Curiam Opinion's reliance on *Martin Tractor Co. v. FEC*, 627 F.2d 375 (D.C. Cir. 1980), is unfounded. Per Curiam, Supp. App. 150sa-55sa. There a corporation and its PAC challenged as vague a provision permitting them to "solicit" hourly employees only twice a year. 627 F.2d at 382. Plaintiffs alleged "that their behavior has thus far conformed to the statutory mandate [and] make no allegation of an intention imminent or otherwise to violate the statute, and the [FEC had] no cause to commence enforcement, nor even to threaten enforcement, of the challenged statutory provisions." *Id.* at 382-83. Instead, the case presented a long-term issue with no present impact. On those facts, the court concluded that, because there was no "urgency of decision," *id.* at 388, and the FEC's advisory opinion process "offer[ed] a prompt means of resolving doubts with respect to the statute's reach," *id.* at 384, that could "be pursued at little risk to the rights asserted," *id.* at 386, the

3. *The Vagueness Of The Coordination Provisions Has Not Been Cured.*

Buckley holds that restrictions on political speech concerning public issues and candidates that threaten criminal penalties must be exceptionally clear, precise, and objective. 424 U.S. at 41. The express advocacy standard illustrates what is required. *Id.* at 39-40. BCRA's definition of coordinated speech as speech made "in cooperation, consultation, or concert with, or at the request or suggestion of" a candidate, campaign, or party falls woefully short of the required standard.

Even the quickest glance at the FEC's coordination provisions reveals that the vagueness of the statute has not been cured, or even seriously addressed, in critical respects. For example, 11 C.F.R. § 109.21(d)(1) continues to include as "coordinated" any independent speech "at the request or suggestion of a candidate or an authorized committee, political party committee, or agent."[7] And 11 C.F.R. § 109.21(e) emphasizes that this standard must not be understood to require any element of agreement. Accordingly, so far as appears, whenever a candidate, campaign, or political party expresses any desire or suggestion relating to possible independent speech, that speech then becomes problematic. Surely something much narrower was intended, but that simply demonstrates the vagueness of the regulation.

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doctrine of ripeness counseled "against constitutional adjudication on a barren record." *Id.* at 385. Here, by contrast, the record is clear that the Business Plaintiffs and many similar entities engage in a wide variety of contacts with legislators and other federal and party officials that, if not properly structured and limited, will preclude independent issue advocacy in the future. Thus, the problem is urgent, the advisory process offers no plausible assistance, and the case is before this Court on a full record and under a statutory mandate of prompt resolution.

[7] The speech also must satisfy certain vague and overbroad content standards, such as constituting an "electioneering message." 11 C.F.R. § 109.21(a)(2).

Importantly, BCRA's coordination provisions are self-enforcing. Whether or not valid regulations exist, if a Business Plaintiff makes an expenditure that is "coordinated," a corporate contribution results, a political opponent may file a complaint and, if the FEC does not pursue the matter with satisfactory vigor, may seek judicial review. While *compliance* with a regulation is a defense, 2 U.S.C. § 438(e), violation of a vague regulation leaves the speaker exposed to full penalties.

Because the Business Plaintiffs and thousands of similar entities interact with federal legislators, officials, and political parties on almost a daily basis, these vague and self-executing provisions, backed up by criminal sanctions, force them to hedge and trim and steer clear of fully protected activity. This is unconstitutional.

CONCLUSION

For the foregoing reasons, the Court should note probable jurisdiction.

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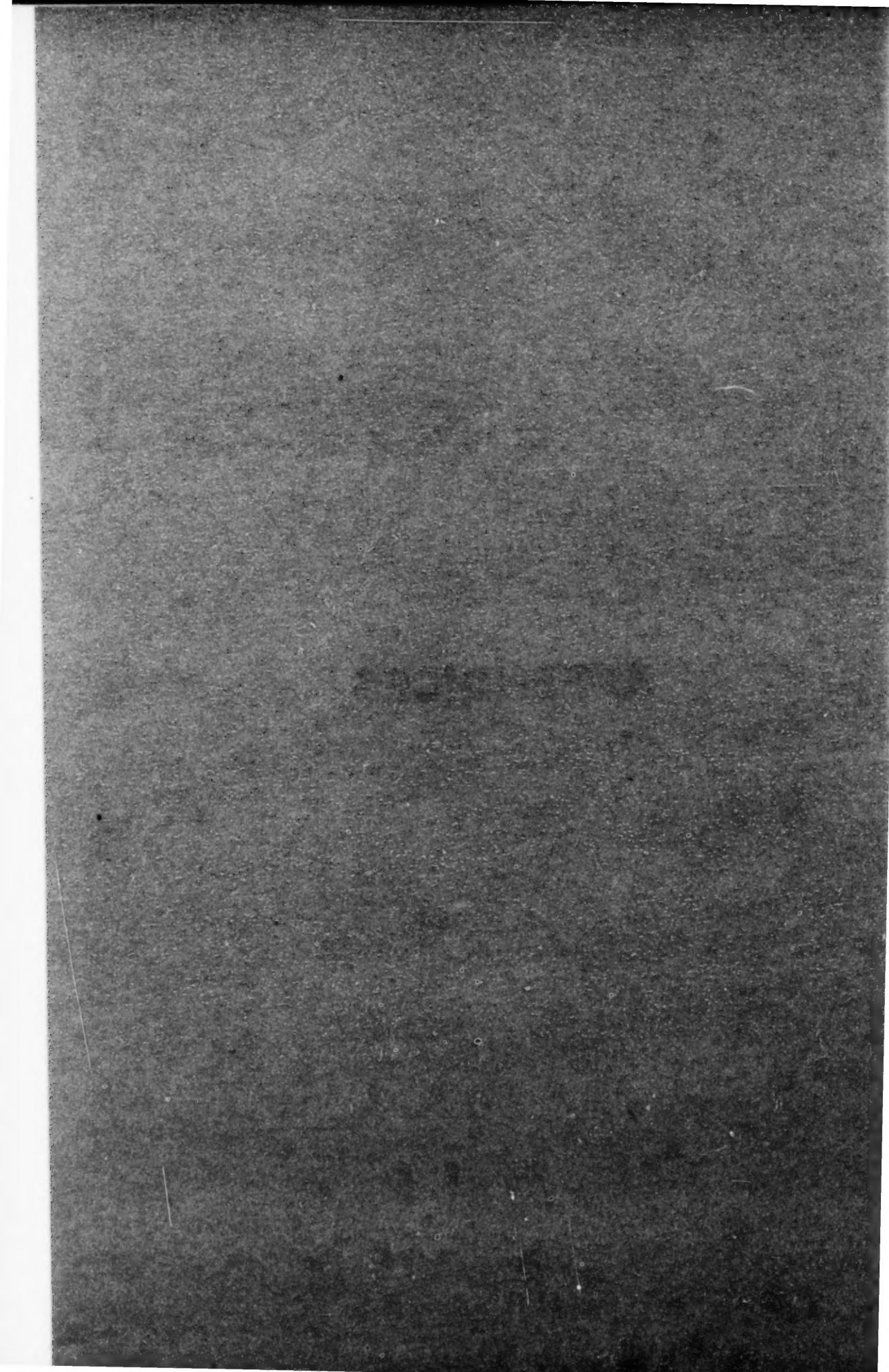

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civ. No. 02-0582 (CKK, KLH, RJL)
(and related cases)

SENATOR MITCH MCCONNELL, *et al.*,
Plaintiffs,

v.

FEDEFLAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-0751 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*,
Plaintiffs,

v.

FEDEFLAL ELECTION COMMISSION, *et al.*,
Defendants.

NOTICE OF APPEAL TO THE SUPREME COURT OF THE UNITED STATES

Notice is hereby given that the following plaintiffs in these cases hereby appeal to the Supreme Court of the United States from any and all adverse rulings incorporated in, antecedent to or ancillary to the final judgment of the three-judge district court entered in this action on May 2, 2003: Chamber of Commerce of the United States, National Association of Manufacturers, U.S. Chamber Political Action Committee,

Associated Builders and Contractors, Inc., and Associated Builders & Contractors Political Action Committee.

This appeal is taken pursuant to section 403(a)(3) of the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, 116 Stat. 81, 114.

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APPENDIX B

Opinions of the District Court

Appellants have prepared a single printed set of opinions filed with the Court as a Supplemental Appendix to Jurisdictional Statements to be referenced by all jurisdictional statements. The opinions of the district court are reported at 2003 WL 2010983, 21003118, and 21003124 (D.D.C. May 1, 2003) and can also be found on the Internet at http://lsmns2o.gtwy.uscourts.gov/dcd/mcconnell-2002-ruling.html.

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civ. No. 02-582 (CKK, KLH, RJL)

SENATOR MITCH MCCONNELL, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-581 (CKK, KLH, RJL)

NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-633 (CKK, KLH, RJL)

EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-751 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-753 (CKK, KLH, RJL)

NATIONAL ASSOCIATION OF BROADCASTERS,
Plaintiff,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-754 (CKK, KLH, RJL)

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-781 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-874 (CKK, KLH, RJL)

REPUBLICAN NATIONAL COMMITTEE, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*
Defendants.

Civ. No. 02-875 (CKK, KLH, RJL)

CALIFORNIA DEMOCRATIC PARTY, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-877 (CKK, KLH, RJL)

VICTORIA JACKSON GRAY ADAMS, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-881 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

ORDER
(May 19, 2003)

For the reasons set forth in the Memorandum Opinion of Circuit Judge Henderson and District Judge Kollar-Kotelly, from which District Judge Leon concurs in part and dissents in part, it is this 19th day of May, 2003, hereby

ORDERED that the Government Defendants' Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#327] is GRANTED; it is further

ORDERED that the Intervening Defendants' Motion to Stay Injunction Pending Appeal [#322] is GRANTED; it is further

ORDERED that the NRA Plaintiffs' Motion to Stay Pursuant to Rule 62(c) [#317] is DENIED AS MOOT; it is further

ORDERED that Plaintiff ACLU's Motion for Stay Pursuant to Rule 62(c) [#325] is DENIED AS MOOT; and it is further

ORDERED that this Court's May 1, 2003, Final Judgment is STAYED pending final disposition of these actions in the Supreme Court of the United States.

All three judges concur that it is hereby

ORDERED that Certain of the Madison Center Plaintiffs'[1] Motion for Injunction Pending Appeal [#321] is DENIED; it is further

ORDERED that Plaintiff AFL-CIO's Motion for an Injunction Pending Appeal [#319] is DENIED; it is further

ORDERED that the NRA Plaintiffs' Motion for an Administrative Stay, Pending Adjudication of Their Motion to Stay Pursuant to Rule 62(c) [#318] is DENIED AS MOOT; it is further

ORDERED that the Government Defendants' Emergency Motion for Temporary Stay of Final Judgment Pending Consideration of Motion for Stay of Final Judgment Pending Appeal to the Supreme Court of the United States [#326] is DENIED AS MOOT; it is further

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[1] For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

ORDERED that Certain of the Madison Center Plaintiffs'[2] Motion to Convene an Open Hearing on their Motion for an Injunction Pending Appeal [#328] is DENIED[3]; and it is further

ORDERED that the Madison Center Plaintiffs' Motion to Alter or Amend the Judgment [#316] is DENIED AS MOOT.

SO ORDERED.

/s/ Karen Lecraft Henderson
United States Circuit Judge

/s/ Colleen Kollar-Kotelly
United States District Judge

/s/ Richard J. Leon
United States District Judge

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[2] For purposes of this motion, the Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, Club for Growth, Inc., and Indiana Family Institute, Inc.

[3] As all three judges have signed this Order, the Court has complied with Federal Rule of Civil Procedure 62(c) and does not need to issue this order by sitting in open court. Fed. R. Civ. P. 62(c).

APPENDIX D

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civ. No. 02-582 (CKK, KLH, RJL)

SENATOR MITCH MCCONNELL, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-581 (CKK, KLH, RJL)

NATIONAL RIFLE ASSOCIATION OF AMERICA, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-633 (CKK, KLH, RJL)

EMILY ECHOLS, a minor child, by and through her next friends, TIM AND WINDY ECHOLS, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-751 (CKK, KLH, RJL)

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-753 (CKK, KLH, RJL)

NATIONAL ASSOCIATION OF BROADCASTERS,
Plaintiff,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-754 (CKK, KLH, RJL)

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-781 (CKK, KLH, RJL)

CONGRESSMAN RON PAUL, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-874 (CKK, KLH, RJL)

REPUBLICAN NATIONAL COMMITTEE, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*
Defendants.

Civ. No. 02-875 (CKK, KLH, RJL)

CALIFORNIA DEMOCRATIC PARTY, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-877 (CKK, KLH, RJL)

VICTORIA JACKSON GRAY ADAMS, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

Civ. No. 02-881 (CKK, KLH, RJL)

REPRESENTATIVE BENNIE G. THOMPSON, *et al.*,
Plaintiffs,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Defendants.

MEMORANDUM OPINION

(May 19, 2003)

Presently before the Court are a number of motions to stay all or part of this Court's May 1, 2003, Final Judgment. On May 7, 2003, the NRA Plaintiffs moved, pursuant to Federal Rule of Civil Procedure 62(c), to stay this Court's decision with respect to Title II pending review by the Supreme Court. NRA Mem. at 1. On May 8, 2003, this Court issued an Order requiring that any other motions requesting to stay all or part of this Court's May 1, 2003, Final Judgment Order be filed by noon on Friday, May 9, 2003. *McConnell v. FEC*, No. 02cv582 (D.D.C. May 8, 2003) (briefing order). The Court also required that any and all oppositions to the motions for stay be filed by noon on Monday, May 12, 2003, and that any

and all replies to the motions for stay be filed by noon on Wednesday, May 14, 2003. *Id.*

In accordance with that schedule, on May 9, 2003, Plaintiff ACLU filed a stay motion joining Plaintiff NRA's request to stay this Court's decision with respect to Title II. ACLU Mot. at 3. The NRA and ACLU stay motions have been opposed by the Madison Center Plaintiffs,[1] who along with the AFL-CIO Plaintiffs have each moved for injunctive relief requesting that the Court not restore any definition of "electioneering communication." Madison Center Mem. at 1; AFL-CIO Mem at 2. The Madison Center Plaintiffs and the AFL-CIO Plaintiffs' motions have been opposed by the Government Defendants[2] and Intervenor Defendants.[3]

The Government Defendants and Intervenor-Defendants also move pursuant to Rule 62(c) to stay the Court's entire Final Judgment pending disposition of the parties' appeals to the Supreme Court of the United States. Gov't Mem. at 4; Intervenor Defs.' Mem. at 1. These motions are opposed by certain of the McConnell Plaintiffs,[4] who argue that the

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[1] Madison Center Plaintiffs include the National Right to Life Committee, Inc., National Right to Life Educational Trust Fund, National Right to Life PAC, Libertarian National Committee, Inc., Club for Growth, Inc., Indiana Family Institute, Inc., U.S. Representative Mike Pence, Alabama Attorney General William H. Pryor, Barret Austin O'Brock, and Trevor M. Southerland.

[2] The Government Defendants include the Federal Election Commission, the United States of America, the United States Department of Justice, John Ashcroft, Attorney General of the United States, and the Federal Communications Commission.

[3] The Intervenor Defendants include Senator John McCain, Senator Russell Feingold, Representative Christopher Shays, Representative Martin Meehan, Senator Olympia Snowe, and Senator James Jeffords.

[4] These McConnell Plaintiffs include Senator Mitch McConnell, Southeastern Legal Foundation, Inc., Representative Bob Barr, Center for Individual Freedom, National Right to Work Committee, 60 Plus Association, Inc., U.S. d/b/a Pro English, and Thomas McInerney.

Court's Final Judgment with respect to Sections 201(5), 213, 318, and 504 of the Bipartisan Campaign Reform Act ("BCRA"), the positions unanimously struck down by the three judge court, should not be stayed. McConnell Opp'n at 3. These McConnell Plaintiffs also contend that the Court's ruling with regard to Title I should not be stayed. *Id.* at 3-4. These McConnell Plaintiffs join the NRA and ACLU in requesting, however, that the Court's Title II ruling be stayed. *Id.* at 4-6. Defendants' motions are also opposed by Plaintiff National Association of Broadcasters which requests that the Court not stay its ruling with regard to Section 504 of BCRA. NAB Mem. at 5. Plaintiff National Association of Broadcasters takes no position with respect to any of the other stay requests. *Id.* at 1. Similarly, Plaintiffs in Civil Action Number 02-633, the Echols Plaintiffs, oppose Defendants' motions, particularly with respect to staying the Court's ruling on Section 318 of BCRA. Echols' Opp'n at 2. Additional oppositions to the Government Defendants and Intervenor Defendants' motions have been filed by Republican National Committee Plaintiffs[5] and Plaintiffs California Democratic Party and California Republican Party,[6] opposing the stay motions only with respect to staying this Court's ruling on Title I of BCRA. CDP/CRP Opp'n at 2; RNC Opp'n at 1. The Madison Center Plaintiffs and the AFL-CIO also each oppose these motions and argue, as discussed *supra*, that the Court should not reinstate either definition of electioneering communication.

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[5] The Republican National Committee Plaintiffs include the Republican National Committee, the Republican Parties of Colorado, New Mexico, and Ohio, Dallas County (Iowa) Republican County Central Committee, and Michael Duncan.

[6] Joining the CDP and CRP in opposing these motions are Yolo County Democratic Central Committee, Art Torres, Santa Cruz Republican Central Committee, Shawn Steel, Timothy Morgan, Barbara Alby, and Douglas R. Boyd, Sr.

Two motions for "administrative" stays filed by the NRA Plaintiffs and the Government Defendants (joined by the Intervenor Defendants) are also pending before this Court. These requests are to stay all (Defendants' position) or part (NRA's position) of the Court's ruling until the Court can make a ruling on the present Rule 62(c) motions. Given that the Court is ruling on the Rule 62(c) motions in the attached order, the administrative stay requests are denied as moot.

After due consideration of the motions, the oppositions, and replies, the relevant case law, and the pertinent Federal Rules of Civil Procedure, the Court is satisfied that a stay should be granted pending final disposition of these eleven actions in the Supreme Court of the United States. This Court's desire to prevent the litigants from facing potentially three different regulatory regimes in a very short time span, and the Court's recognition of the divisions among the panel about the constitutionality of the challenged provisions of BCRA, counsel in favor of granting a stay of this case. Pursuant to Federal Rule of Civil Procedure 52(a) ("Findings of fact and conclusions of law are unnecessary on decisions of motions under Rule 12 or 56 or any other motion. . . ."), the Court deems no further discussion necessary to resolve these motions.

/s/ Karen Lecraft Henderson
United States Circuit Judge

/s/ Colleen Kollar-Kotelly
United States District Judge

RICHARD J. LEON, *District Judge*, dissenting in part and concurring in part: Because the moving parties have failed to demonstrate irreparable injury and because granting a stay to this Court's judgment in its entirety will violate the First Amendment rights of various political parties, donors, broadcasters, interest groups, and minors, I respectfully dissent in part from, and concur in part in, my colleagues' decision.

After months of painstaking analysis, this Court found unconstitutional, in whole or in part, nine of the twenty provisions of BCRA challenged by the plaintiffs. Four of those provisions were struck down unanimously (i.e., 201(5), 213, 318, and 504), and four were struck down in their entirety (i.e., 213, 318, 504, and new FECA Section 323(d)). While our reasoning may have differed in some instances, at least two members of this Court *in each instance* found that the unconstitutional section of the statute (or its subpart) unjustifiably infringed upon the constitutional rights of one or more of the various parties' impacted by the BCRA campaign finance regime. Indeed, because "the loss of First Amendment freedom for even minimal periods of time unquestionably constitutes irreparable injury," *Elrod v. Burns*, 427 U.S. 347, 374 (1976), the moving parties' arguments must be scrutinized by this Court with extreme care to ensure that they meet the high standards for this "extraordinary remedy." *Cuomo v. U.S. Nuclear Reg. Comm'n*, 772 F.2d 972, 978 (D.C. Cir. 1985).[7] In my

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[7] The Court will only grant a stay pending appeal if the moving parties can "show (1) that [they] have a substantial likelihood of success on the merits; (2) that [they] will suffer irreparable injury if the stay is denied; (3) that issuance of the stay will not cause substantial harm to other parties; and (4) that the public interest will be served by issuance of the stay." *United States v. Philip Morris, Inc.*, 314 F.3d 612, 617 (D.C. Cir. 2003) (citing *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977)). These factors must be weighed against one another, and the mere presence of one factor does not dictate an outcome for or against the stay. *See Serono Labs., Inc. v. Shalala*, 158

judgment, their arguments, for the most part, cannot withstand such scrutiny.

With regard to Title I, two members of this Court found that the defendants could not justify Congress's sweeping soft money restrictions in new FECA Sections 323(a) and 323(b) that require political parties to fund nonfederal and mixed-purposed activities with only federal money. Such restrictions, in our judgment, placed an impermissible burden on the associational rights of parties and their donors. Thus, every day these BCRA provisions remain in effect donors are restricted from using donations to amplify their voices through their political parties, thereby suffering irreparable injury. It is difficult to fathom how granting a stay on these Title I provisions could possibly be in the public interest, or be justified by the relatively minor inconvenience to the FEC of having to reinstate, for the most part, its all-too-familiar pre-BCRA rules. Moreover, the defendants' argument that this Court's judgment is "likely to create the appearance or fact of corruption" by allowing political parties and others to raise and use nonfederal funds (i.e., soft money) is similarly unavailing. Gov't Mot. for Stay at 9, 13-14. As long as soft money cannot be used for federal purposes, which is after all the majority holding of this Court, the risk of actual or apparent corruption is nonexistent. Simply stated, the public interest is much better served by protecting the public's First Amendment freedoms and by ensuring that the political parties and other participants in the public arena are free to play their traditional roles in the electoral process unimpeded by unconstitutional restraints.

With regard to Title II, I similarly do not believe the moving parties have demonstrated sufficient irreparable harm, alone, to warrant a stay—particularly as to Sections

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F.3d 1313, 1318 (D.C. Cir. 1998); *CityFed Fin. Corp. v. Office of Thrift Supervision*, 58 F.3d 738, 747 (D.C. Cir. 1995).

201(5) and 213 which were unanimously struck down by this Court. However, I do believe that the FEC's unfortunate failure to promulgate regulations for the backup definition, as it did for the primary definition,[8] has sufficiently deprived the parties of guidance regarding the contours of the backup definition to warrant a stay of the primary definition portion of our judgment on Section 201. Doing so, at this time, is palatable since the primary definition does not take effect as a practical matter until thirty days before the first primary election and will therefore not immediately injure the plaintiffs. Unlike my colleagues, however, I would limit that stay to the period of time necessary for the FEC to issue regulatory guidance on the backup definition, and thereby minimize the negative consequences of reinstating the primary definition.

Finally, with respect to Sections 318 and 504, which are conceptually distinct from Titles I and II and were also struck down unanimously by this Court, the moving parties have not even attempted to demonstrate that irreparable harm will occur if the judgments as to these sections are not stayed; nor could they have done so, credibly. To me, including these flawed sections in a statute-wide stay would be like a fisherman retaining whatever the ocean yields to a net with undersized mesh. It increases his "catch," but the public interest dictates against it. Suffice it to say, continuing such

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[8] Some commenters on the proposed FEC regulations argued that "the period between a final decision in [this] litigation and the 2004 elections is likely to be too short to permit the commission to complete a rulemaking [on the backup definition] in time to provide guidance, if the operative definition is invalidated. They further argued that the [backup] definition's application to the entire election cycle, and not just the 30- or 60-day periods to which the current definition is limited, exacerbates the timing issue." Electioneering Communications, 67 Fed. Reg. 65190, 65191 (Oct. 23, 2002). Without regard to these concerns, the FEC decided that promulgating regulations for the backup definition was "premature." *Id.*

unconstitutional restrictions on minors and demanding such unconstitutional record production from broadcasters is, in my judgment, inconsistent with both the public interest and the spirit of the First Amendment.

/s/ Richard J. Leon
RICHARD J. LEON
United States District Judge

APPENDIX E

United States Constitution

Amendment I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

APPENDIX F

UNITED STATES PUBLIC LAWS
107th Congress—Second Session
Convening January, 2002

PL 107-155 (HR 2356)
March 27, 2002

BIPARTISAN CAMPAIGN REFORM ACT OF 2002

An Act To amend the Federal Election Campaign Act of 1971 to provide bipartisan campaign reform.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Bipartisan Campaign Reform Act of 2002".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Sec. 101. Soft money of political parties.

Sec. 102. Increased contribution limit for State committees of political parties.

Sec. 103. Reporting requirements.

TITLE II—NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A—Electioneering Communications

Sec. 201. Disclosure of electioneering communications.

Sec. 202. Coordinated communications as contributions.

Sec. 203. Prohibition of corporate and labor disbursements for electioneering communications.

Sec. 204. Rules relating to certain targeted electioneering communications.

Subtitle B—Independent and Coordinated Expenditures

Sec. 211. Definition of independent expenditure.

Sec. 212. Reporting requirements for certain independent expenditures.

Sec. 213. Independent versus coordinated expenditures by party.

Sec. 214. Coordination with candidates or political parties.

TITLE III—MISCELLANEOUS

Sec. 301. Use of contributed amounts for certain purposes.

Sec. 302. Prohibition of fundraising on Federal property.

Sec. 303. Strengthening foreign money ban.

Sec. 304. Modification of individual contribution limits in response to expenditures from personal funds.

Sec. 305. Limitation on availability of lowest unit charge for Federal candidates attacking opposition.

Sec. 306. Software for filing reports and prompt disclosure of contributions.

Sec. 307. Modification of contribution limits.

Sec. 308. Donations to Presidential inaugural committee.

Sec. 309. Prohibition on fraudulent solicitation of funds.

Sec. 310. Study and report on clean money clean elections laws.

Sec. 311. Clarity standards for identification of sponsors of election-related advertising.

Sec. 312. Increase in penalties.

Sec. 313. Statute of limitations.

Sec. 314. Sentencing guidelines.

Sec. 315. Increase in penalties imposed for violations of conduit contribution ban.

Sec. 316. Restriction on increased contribution limits by taking into account candidate's available funds.

Sec. 317. Clarification of right of nationals of the United States to make political contributions.

Sec. 318. Prohibition of contributions by minors.

Sec. 319. Modification of individual contribution limits for House candidates in response to expenditures from personal funds.

TITLE IV—SEVERABILITY; EFFECTIVE DATE

Sec. 401. Severability.

Sec. 402. Effective dates and regulations.

Sec. 403. Judicial review.

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

Sec. 501. Internet access to records.

Sec. 502. Maintenance of website of election reports.

Sec. 503. Additional disclosure reports.

Sec. 504. Public access to broadcasting records.

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

SEC. 101. SOFT MONEY OF POLITICAL PARTIES.

(a) IN GENERAL.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"SEC.323. SOFT MONEY OF POLITICAL PARTIES.

"(a) NATIONAL COMMITTEES.—

"(1) IN GENERAL.—A national committee of a political party (including a national congressional campaign committee of a political party) may not solicit, receive, or direct to another person a contribution, donation, or transfer of funds or any other thing of value, or spend any funds, that are not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—The prohibition established by paragraph (1) applies to any such national committee, any officer or agent acting on behalf of such a national committee, and any entity that is directly or indirectly established, financed, maintained, or controlled by such a national committee.

"(b) STATE, DISTRICT, AND LOCAL COMMITTEES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), an amount that is expended or disbursed for Federal election activity by a State, district, or local committee of a political party (including an entity that is directly or indirectly established, financed, maintained, or controlled by a State, district, or local committee of a political party and an officer or agent acting on behalf of such committee or entity), or by an association or similar group of candidates for State or local office or of individuals holding State or local office, shall be

made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) APPLICABILITY.—

"(A) IN GENERAL.—Notwithstanding clause (i) or (ii) of section 301(20)(A), and subject to subparagraph (B), paragraph (1) shall not apply to any amount expended or disbursed by a State, district, or local committee of a political party for an activity described in either such clause to the extent the amounts expended or disbursed for such activity are allocated (under regulations prescribed by the Commission) among amounts—

"(i) which consist solely of contributions subject to the limitations, prohibitions, and reporting requirements of this Act (other than amounts described in subparagraph (B)(iii)); and

"(ii) other amounts which are not subject to the limitations, prohibitions, and reporting requirements of this Act (other than any requirements of this subsection).

"(B) CONDITIONS.—Subparagraph (A) shall only apply if—

"(i) the activity does not refer to a clearly identified candidate for Federal office;

"(ii) the amounts expended or disbursed are not for the costs of any broadcasting, cable, or satellite communication, other than a communication which refers solely to a clearly identified candidate for State or local office;

"(iii) the amounts expended or disbursed which are described in subparagraph (A)(ii) are paid from amounts which are donated in accordance with State law and which meet the requirements of subparagraph (C), except that no person (including any person established, financed, maintained, or controlled by such person) may donate more than $10,000 to a State, district, or local committee of a political party in a calendar year for such expenditures or disbursements; and

"(iv) the amounts expended or disbursed are made solely from funds raised by the State, local, or district committee which makes such expenditure or disbursement, and do not include any funds provided to such committee from—

"(I) any other State, local, or district committee of any State party,

"(II) the national committee of a political party (including a national congressional campaign committee of a political party),

"(III) any officer or agent acting on behalf of any committee described in subclause (I) or (II), or

"(IV) any entity directly or indirectly established, financed, maintained, or controlled by any committee described in subclause (I) or (II).

"(C) PROHIBITING INVOLVEMENT OF NATIONAL PARTIES, FEDERAL CANDIDATES AND OFFICEHOLDERS, AND STATE PARTIES ACTING JOINTLY.—Notwithstanding subsection (e) (other than subsection (e)(3)), amounts specifically authorized to be spent under subparagraph (B)(iii) meet the requirements of this subparagraph only if the amounts—

"(i) are not solicited, received, directed, transferred, or spent by or in the name of any person described in subsection (a) or (e); and

"(ii) are not solicited, received, or directed through fundraising activities conducted jointly by 2 or more State, local, or district committees of any political party or their agents, or by a State, local, or district committee of a political party on behalf of the State, local, or district committee of a political party or its agent in one or more other States.

"(c) FUNDRAISING COSTS.—An amount spent by a person described in subsection (a) or (b) to raise funds that are used, in whole or in part, for expenditures and disbursements

for a Federal election activity shall be made from funds subject to the limitations, prohibitions, and reporting requirements of this Act.

"(d) TAX-EXEMPT ORGANIZATIONS.—A national, State, district, or local committee of a political party (including a national congressional campaign committee of a political party), an entity that is directly or indirectly established, financed, maintained, or controlled by any such national, State, district, or local committee or its agent, and an officer or agent acting on behalf of any such party committee or entity, shall not solicit any funds for, or make or direct any donations to—

"(1) an organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under such section) and that makes expenditures or disbursements in connection with an election for Federal office (including expenditures or disbursements for Federal election activity); or

"(2) an organization described in section 527 of such Code (other than a political committee, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).

"(e) FEDERAL CANDIDATES.—

"(1) IN GENERAL.—A candidate, individual holding Federal office, agent of a candidate or an individual holding Federal office, or an entity directly or indirectly established, financed, maintained or controlled by or acting on behalf of 1 or more candidates or individuals holding Federal office, shall not—

"(A) solicit, receive, direct, transfer, or spend funds in connection with an election for Federal office, including funds for any Federal election activity, unless the

funds are subject to the limitations, prohibitions, and reporting requirements of this Act; or

"(B) solicit, receive, direct, transfer, or spend funds in connection with any election other than an election for Federal office or disburse funds in connection with such an election unless the funds—

"(i) are not in excess of the amounts permitted with respect to contributions to candidates and political committees under paragraphs (1), (2), and (3) of section 315(a); and

"(ii) are not from sources prohibited by this Act from making contributions in connection with an election for Federal office.

"(2) STATE LAW.—Paragraph (1) does not apply to the solicitation, receipt, or spending of funds by an individual described in such paragraph who is or was also a candidate for a State or local office solely in connection with such election for State or local office if the solicitation, receipt, or spending of funds is permitted under State law and refers only to such State or local candidate, or to any other candidate for the State or local office sought by such candidate, or both.

"(3) FUNDRAISING EVENTS.—Notwithstanding paragraph (1) or subsection (b)(2)(C), a candidate or an individual holding Federal office may attend, speak, or be a featured guest at a fundraising event for a State, district, or local committee of a political party.

"(4) PERMITTING CERTAIN SOLICITATIONS.—

"(A) GENERAL SOLICITATIONS.—Notwithstanding any other provision of this subsection, an individual described in paragraph (1) may make a general solicitation of funds on behalf of any organization that is described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code (or has submitted an application for determination of tax exempt status under

such section) (other than an entity whose principal purpose is to conduct activities described in clauses (i) and (ii) of section 301(20)(A)) where such solicitation does not specify how the funds will or should be spent.

"(B) CERTAIN SPECIFIC SOLICITATIONS.—In addition to the general solicitations permitted under subparagraph (A), an individual described in paragraph (1) may make a solicitation explicitly to obtain funds for carrying out the activities described in clauses (i) and (ii) of section 301(20)(A), or for an entity whose principal purpose is to conduct such activities, if—

"(i) the solicitation is made only to individuals; and

"(ii) the amount solicited from any individual during any calendar year does not exceed $20,000.

"(f) STATE CANDIDATES.—

"(1) IN GENERAL.—A candidate for State or local office, individual holding State or local office, or an agent of such a candidate or individual may not spend any funds for a communication described in section 301(20)(A)(iii) unless the funds are subject to the limitations, prohibitions, and reporting requirements of this Act.

"(2) EXCEPTION FOR CERTAIN COMMUNICATIONS.—Paragraph (1) shall not apply to an individual described in such paragraph if the communication involved is in connection with an election for such State or local office and refers only to such individual or to any other candidate for the State or local office held or sought by such individual, or both.".

(b) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) FEDERAL ELECTION ACTIVITY.—

"(A) IN GENERAL.—The term 'Federal election activity' means—

"(i) voter registration activity during the period that begins on the date that is 120 days before the date a regularly scheduled Federal election is held and ends on the date of the election;

"(ii) voter identification, get-out-the-vote activity, or generic campaign activity conducted in connection with an election in which a candidate for Federal office appears on the ballot (regardless of whether a candidate for State or local office also appears on the ballot);

"(iii) a public communication that refers to a clearly identified candidate for Federal office (regardless of whether a candidate for State or local office is also mentioned or identified) and that promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate); or

"(iv) services provided during any month by an employee of a State, district, or local committee of a political party who spends more than 25 percent of that individual's compensated time during that month on activities in connection with a Federal election.

"(B) EXCLUDED ACTIVITY.—The term 'Federal election activity' does not include an amount expended or disbursed by a State, district, or local committee of a political party for—

"(i) a public communication that refers solely to a clearly identified candidate for State or local office, if the communication is not a Federal election activity described in subparagraph (A)(i) or (ii);

"(ii) a contribution to a candidate for State or local office, provided the contribution is not designated to pay for a Federal election activity described in subparagraph (A);

"(iii) the costs of a State, district, or local political convention; and

"(iv) the costs of grassroots campaign materials, including buttons, bumper stickers, and yard signs, that name or depict only a candidate for State or local office.

"(21) GENERIC CAMPAIGN ACTIVITY.—The term 'generic campaign activity' means a campaign activity that promotes a political party and does not promote a candidate or non-Federal candidate.

"(22) PUBLIC COMMUNICATION.—The term 'public communication' means a communication by means of any broadcast, cable, or satellite communication, newspaper, magazine, outdoor advertising facility, mass mailing, or telephone bank to the general public, or any other form of general public political advertising.

"(23) MASS MAILING.—The term 'mass mailing' means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30-day period.

"(24) TELEPHONE BANK.—The term 'telephone bank' means more than 500 telephone calls of an identical or substantially similar nature within any 30-day period.".

SEC. 102. INCREASED CONTRIBUTION LIMIT FOR STATE COMMITTEES OF POLITICAL PARTIES.

Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C)—

(A) by inserting "(other than a committee described in subparagraph (D))" after "committee"; and

(B) by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(D) to a political committee established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed $10,000.".

SEC. 103. REPORTING REQUIREMENTS.

(a) REPORTING REQUIREMENTS.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end the following:

"(e) POLITICAL COMMITTEES.—

"(1) NATIONAL AND CONGRESSIONAL POLITICAL COMMITTEES.—The national committee of a political party, any national congressional campaign committee of a political party, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period.

"(2) OTHER POLITICAL COMMITTEES TO WHICH SECTION 323 APPLIES.—

"(A) IN GENERAL.—In addition to any other reporting requirements applicable under this Act, a political committee (not described in paragraph (1)) to which section 323(b)(1) applies shall report all receipts and disbursements made for activities described in section 301(20)(A), unless the aggregate amount of such receipts and disbursements during the calendar year is less than $5,000.

"(B) SPECIFIC DISCLOSURE BY STATE AND LOCAL PARTIES OF CERTAIN NON-FEDERAL AMOUNTS PERMITTED TO BE SPENT ON FEDERAL ELECTION ACTIVITY.—Each report by a political

committee under subparagraph (A) of receipts and disbursements made for activities described in section 301(20)(A) shall include a disclosure of all receipts and disbursements described in section 323(b)(2)(A) and (B).

"(3) ITEMIZATION.—If a political committee has receipts or disbursements to which this subsection applies from or to any person aggregating in excess of $200 for any calendar year, the political committee shall separately itemize its reporting for such person in the same manner as required in paragraphs (3)(A), (5), and (6) of subsection (b).

"(4) REPORTING PERIODS.—Reports required to be filed under this subsection shall be filed for the same time periods required for political committees under subsection (a)(4)(B).".

(b) BUILDING FUND EXCEPTION TO THE DEFINITION OF CONTRIBUTION.—

(1) IN GENERAL.—Section 301(8)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)(B)) is amended—

(A) by striking clause (viii); and

(B) by redesignating clauses (ix) through (xv) as clauses (viii) through (xiv), respectively.

(2) NONPREEMPTION OF STATE LAW.—Section 403 of such Act (2 U.S.C. 453) is amended—

(A) by striking "The provisions of this Act" and inserting "(a) IN GENERAL.—Subject to subsection (b), the provisions of this Act"; and

(B) by adding at the end the following:

"(b) STATE AND LOCAL COMMITTEES OF POLITICAL PARTIES.—Notwithstanding any other provision of this Act, a State or local committee of a political party may, subject to State law, use exclusively funds that are not subject

to the prohibitions, limitations, and reporting requirements of the Act for the purchase or construction of an office building for such State or local committee.".

TITLE II—NONCANDIDATE CAMPAIGN EXPENDITURES

Subtitle A—Electioneering Communications

SEC. 201. DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by section 103, is amended by adding at the end the following new subsection:

"(f) DISCLOSURE OF ELECTIONEERING COMMUNICATIONS.—

"(1) STATEMENT REQUIRED.—Every person who makes a disbursement for the direct costs of producing and airing electioneering communications in an aggregate amount in excess of $10,000 during any calendar year shall, within 24 hours of each disclosure date, file with the Commission a statement containing the information described in paragraph (2).

"(2) CONTENTS OF STATEMENT.—Each statement required to be filed under this subsection shall be made under penalty of perjury and shall contain the following information:

"(A) The identification of the person making the disbursement, of any person sharing or exercising direction or control over the activities of such person, and of the custodian of the books and accounts of the person making the disbursement.

"(B) The principal place of business of the person making the disbursement, if not an individual.

"(C) The amount of each disbursement of more than $200 during the period covered by the statement and the identification of the person to whom the disbursement was made.

"(D) The elections to which the electioneering communications pertain and the names (if known) of the candidates identified or to be identified.

"(E) If the disbursements were paid out of a segregated bank account which consists of funds contributed solely by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))) directly to this account for electioneering communications, the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to that account during the period beginning on the first day of the preceding calendar year and ending on the disclosure date. Nothing in this subparagraph is to be construed as a prohibition on the use of funds in such a segregated account for a purpose other than electioneering communications.

"(F) If the disbursements were paid out of funds not described in subparagraph (E), the names and addresses of all contributors who contributed an aggregate amount of $1,000 or more to the person making the disbursement during the period beginning on the first day of the preceding calendar year and ending on the disclosure date.

"(3) ELECTIONEERING COMMUNICATION.—For purposes of this subsection—

"(A) IN GENERAL.—(i) The term 'electioneering communication' means any broadcast, cable, or satellite communication which—

"(I) refers to a clearly identified candidate for Federal office;

"(II) is made within—

"(aa) 60 days before a general, special, or runoff election for the office sought by the candidate; or

"(bb) 30 days before a primary or preference election, or a convention or caucus of a political party that has authority to nominate a candidate, for the office sought by the candidate; and

"(III) in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(ii) If clause (i) is held to be constitutionally insufficient by final judicial decision to support the regulation provided herein, then the term 'electioneering communication' means any broadcast, cable, or satellite communication which promotes or supports a candidate for that office, or attacks or opposes a candidate for that office (regardless of whether the communication expressly advocates a vote for or against a candidate) and which also is suggestive of no plausible meaning other than an exhortation to vote for or against a specific candidate. Nothing in this subparagraph shall be construed to affect the interpretation or application of section 100.22(b) of title 11, Code of Federal Regulations.

"(B) EXCEPTIONS.—The term 'electioneering communication' does not include—

"(i) a communication appearing in a news story, commentary, or editorial distributed through the facilities of any broadcasting station, unless such facilities are owned or controlled by any political party, political committee, or candidate;

"(ii) a communication which constitutes an expenditure or an independent expenditure under this Act;

"(iii) a communication which constitutes a candidate debate or forum conducted pursuant to regulations adopted by the Commission, or which solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum; or

"(iv) any other communication exempted under such regulations as the Commission may promulgate (consistent with the requirements of this paragraph) to ensure the appropriate implementation of this paragraph, except that under any such regulation a communication may not be exempted if it meets the requirements of this paragraph and is described in section 301(20)(A)(iii).

"(C) TARGETING TO RELEVANT ELECTORATE.—For purposes of this paragraph, a communication which refers to a clearly identified candidate for Federal office is 'targeted to the relevant electorate' if the communication can be received by 50,000 or more persons—

"(i) in the district the candidate seeks to represent, in the case of a candidate for Representative in, or Delegate or Resident Commissioner to, the Congress; or

"(ii) in the State the candidate seeks to represent, in the case of a candidate for Senator.

"(4) DISCLOSURE DATE.—For purposes of this subsection, the term 'disclosure date' means—

"(A) the first date during any calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000; and

"(B) any other date during such calendar year by which a person has made disbursements for the direct costs of producing or airing electioneering communications aggregating in excess of $10,000 since the most recent disclosure date for such calendar year.

"(5) CONTRACTS TO DISBURSE.—For purposes of this subsection, a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(6) COORDINATION WITH OTHER REQUIREMENTS.—Any requirement to report under this subsection shall be in addition to any other reporting requirement under this Act.

"(7) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection may be construed to establish, modify, or otherwise affect the definition of political activities or electioneering activities (including the definition of participating in, intervening in, or influencing or attempting to influence a political campaign on behalf of or in opposition to any candidate for public office) for purposes of the Internal Revenue Code of 1986.".

(b) RESPONSIBILITIES OF FEDERAL COMMUNICATIONS COMMISSION.—The Federal Communications Commission shall compile and maintain any information the Federal Election Commission may require to carry out section 304(f) of the Federal Election Campaign Act of 1971 (as added by subsection (a)), and shall make such information available to the public on the Federal Communication Commission's website.

SEC. 202. COORDINATED COMMUNICATIONS AS CONTRIBUTIONS.

Section 315(a)(7) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)) is amended—

(1) by redesignating subparagraph (C) as subparagraph (D); and

(2) by inserting after subparagraph (B) the following:

"(C) if—

"(i) any person makes, or contracts to make, any disbursement for any electioneering communication (within the meaning of section 304(f)(3)); and

"(ii) such disbursement is coordinated with a candidate or an authorized committee of such candidate, a Federal, State, or local political party or committee thereof, or an agent or official of any such candidate, party, or committee;

such disbursement or contracting shall be treated as a contribution to the candidate supported by the electioneering communication or that candidate's party and as an expenditure by that candidate or that candidate's party; and".

SEC. 203. PROHIBITION OF CORPORATE AND LABOR DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(a) IN GENERAL.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by inserting "or for any applicable electioneering communication" before, "but shall not include".

(b) APPLICABLE ELECTIONEERING COMMUNICATION.—Section 316 of such Act is amended by adding at the end the following:

"(c) RULES RELATING TO ELECTIONEERING COMMUNICATIONS.—

"(1) APPLICABLE ELECTIONEERING COMMUNICATION.—For purposes of this section, the term 'applicable electioneering communication' means an electioneering communication (within the meaning of section 304(f)(3)) which is made by any entity described in subsection (a) of this section or by any other person using funds donated by an entity described in subsection (a) of this section.

"(2) EXCEPTION.—Notwithstanding paragraph (1), the term 'applicable electioneering communication' does not

include a communication by a section 501(c)(4) organization or a political organization (as defined in section 527(e)(1) of the Internal Revenue Code of 1986) made under section 304(f)(2)(E) or (F) of this Act if the communication is paid for exclusively by funds provided directly by individuals who are United States citizens or nationals or lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20))). For purposes of the preceding sentence, the term 'provided directly by individuals' does not include funds the source of which is an entity described in subsection (a) of this section.

"(3) SPECIAL OPERATING RULES.—

"(A) DEFINITION UNDER PARAGRAPH (1).—An electioneering communication shall be treated as made by an entity described in subsection (a) if an entity described in subsection (a) directly or indirectly disburses any amount for any of the costs of the communication.

"(B) EXCEPTION UNDER PARAGRAPH (2).—A section 501(c)(4) organization that derives amounts from business activities or receives funds from any entity described in subsection (a) shall be considered to have paid for any communication out of such amounts unless such organization paid for the communication out of a segregated account to which only individuals can contribute, as described in section 304(f)(2)(E).

"(4) DEFINITIONS AND RULES.—For purposes of this subsection—

"(A) the term 'section 501(c)(4) organization' means—

"(i) an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code; or

"(ii) an organization which has submitted an application to the Internal Revenue Service for determination of its status as an organization described in clause (i); and

"(B) a person shall be treated as having made a disbursement if the person has executed a contract to make the disbursement.

"(5) COORDINATION WITH INTERNAL REVENUE CODE.—Nothing in this subsection shall be construed to authorize an organization exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 to carry out any activity which is prohibited under such Code.".

SEC. 204. RULES RELATING TO CERTAIN TARGETED ELECTIONEERING COMMUNICATIONS.

Section 316(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b), as added by section 203, is amended by adding at the end the following:

"(6) SPECIAL RULES FOR TARGETED COMMUNICATIONS.—

"(A) EXCEPTION DOES NOT APPLY.—Paragraph (2) shall not apply in the case of a targeted communication that is made by an organization described in such paragraph.

"(B) TARGETED COMMUNICATION.—For purposes of subparagraph (A), the term 'targeted communication' means an electioneering communication (as defined in section 304(f)(3)) that is distributed from a television or radio broadcast station or provider of cable or satellite television service and, in the case of a communication which refers to a candidate for an office other than President or Vice President, is targeted to the relevant electorate.

"(C) DEFINITION.—For purposes of this paragraph, a communication is 'targeted to the relevant

electorate' if it meets the requirements described in section 304(f)(3)(C).".

Subtitle B—Independent and Coordinated Expenditures

SEC. 211. DEFINITION OF INDEPENDENT EXPENDITURE.

Section 301 of the Federal Election Campaign Act (2 U.S.C. 431) is amended by striking paragraph (17) and inserting the following:

"(17) INDEPENDENT EXPENDITURE.—The term 'independent expenditure' means an expenditure by a person—

"(A) expressly advocating the election or defeat of a clearly identified candidate; and

"(B) that is not made in concert or cooperation with or at the request or suggestion of such candidate, the candidate's authorized political committee, or their agents, or a political party committee or its agents.".

SEC. 212. REPORTING REQUIREMENTS FOR CERTAIN INDEPENDENT EXPENDITURES.

(a) IN GENERAL.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) (as amended by section 201) is amended—

(1) in subsection (c)(2), by striking the undesignated matter after subparagraph (C); and

(2) by adding at the end the following:

"(g) TIME FOR REPORTING CERTAIN EXPENDITURES.—

"(1) EXPENDITURES AGGREGATING $1,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $1,000 or more after the

20th day, but more than 24 hours, before the date of an election shall file a report describing the expenditures within 24 hours.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 24 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $1,000 with respect to the same election as that to which the initial report relates.

"(2) EXPENDITURES AGGREGATING $10,000.—

"(A) INITIAL REPORT.—A person (including a political committee) that makes or contracts to make independent expenditures aggregating $10,000 or more at any time up to and including the 20th day before the date of an election shall file a report describing the expenditures within 48 hours.

"(B) ADDITIONAL REPORTS.—After a person files a report under subparagraph (A), the person shall file an additional report within 48 hours after each time the person makes or contracts to make independent expenditures aggregating an additional $10,000 with respect to the same election as that to which the initial report relates.

"(3) PLACE OF FILING; CONTENTS.—A report under this subsection—

"(A) shall be filed with the Commission; and

"(B) shall contain the information required by subsection (b)(6)(B)(iii), including the name of each candidate whom an expenditure is intended to support or oppose.".

(b) TIME OF FILING OF CERTAIN STATEMENTS.—

(1) IN GENERAL.—Section 304(g) of such Act, as added by subsection (a), is amended by adding at the end the following:

"(4) TIME OF FILING FOR EXPENDITURES AGGREGATING $1,000.—Notwithstanding subsection (a)(5), the time at which the statement under paragraph (1) is received by the Commission or any other recipient to whom the notification is required to be sent shall be considered the time of filing of the statement with the recipient.".

(2) CONFORMING AMENDMENTS.—(A) Section 304(a)(5) of such Act (2 U.S.C. 434(a)(5)) is amended by striking "the second sentence of subsection (c)(2)" and inserting "subsection (g)(1)".

(B) Section 304(d)(1) of such Act (2 U.S.C. 434 (d)(1)) is amended by inserting "or (g)" after "subsection (c)".

SEC. 213. INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.

Section 315(d) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(d)) is amended—

(1) in paragraph (1), by striking "and (3)" and inserting ", (3), and (4)"; and

(2) by adding at the end the following:

"(4) INDEPENDENT VERSUS COORDINATED EXPENDITURES BY PARTY.—

"(A) IN GENERAL.—On or after the date on which a political party nominates a candidate, no committee of the political party may make—

"(i) any coordinated expenditure under this subsection with respect to the candidate during the election cycle at any time after it makes any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle; or

"(ii) any independent expenditure (as defined in section 301(17)) with respect to the candidate during the election cycle at any time after it makes any coordinated expenditure under

this subsection with respect to the candidate during the election cycle.

"(B) APPLICATION.—For purposes of this paragraph, all political committees established and maintained by a national political party (including all congressional campaign committees) and all political committees established and maintained by a State political party (including any subordinate committee of a State committee) shall be considered to be a single political committee.

"(C) TRANSFERS.—A committee of a political party that makes coordinated expenditures under this subsection with respect to a candidate shall not, during an election cycle, transfer any funds to, assign authority to make coordinated expenditures under this subsection to, or receive a transfer of funds from, a committee of the political party that has made or intends to make an independent expenditure with respect to the candidate.".

SEC. 214. COORDINATION WITH CANDIDATES OR POLITICAL PARTIES.

(a) IN GENERAL.—Section 315(a)(7)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(7)(B)) is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following new clause:

"(ii) expenditures made by any person (other than a candidate or candidate's authorized committee) in cooperation, consultation, or concert with, or at the request or suggestion of, a national, State, or local committee of a political party, shall be considered to be contributions made to such party committee; and".

(b) REPEAL OF CURRENT REGULATIONS.—The regulations on coordinated communications paid for by persons other than candidates, authorized committees of

candidates, and party committees adopted by the Federal Election Commission and published in the Federal Register at page 76138 of volume 65, Federal Register, on December 6, 2000, are repealed as of the date by which the Commission is required to promulgate new regulations under subsection (c) (as described in section 402(c)(1)).

(c) REGULATIONS BY THE FEDERAL ELECTION COMMISSION.—The Federal Election Commission shall promulgate new regulations on coordinated communications paid for by persons other than candidates, authorized committees of candidates, and party committees. The regulations shall not require agreement or formal collaboration to establish coordination. In addition to any subject determined by the Commission, the regulations shall address—

(1) payments for the republication of campaign materials;

(2) payments for the use of a common vendor;

(3) payments for communications directed or made by persons who previously served as an employee of a candidate or a political party; and

(4) payments for communications made by a person after substantial discussion about the communication with a candidate or a political party.

(d) MEANING OF CONTRIBUTION OR EXPENDITURE FOR THE PURPOSES OF SECTION 316.—Section 316(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)) is amended by striking "shall include" and inserting "includes a contribution or expenditure, as those terms are defined in section 301, and also includes".

TITLE III—MISCELLANEOUS

SEC. 301. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by striking section 313 and inserting the following:

"SEC.313. USE OF CONTRIBUTED AMOUNTS FOR CERTAIN PURPOSES.

"(a) PERMITTED USES.—A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

"(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

"(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

"(3) for contributions to an organization described in section 170(c) of the Internal Revenue Code of 1986; or

"(4) for transfers, without limitation, to a national, State, or local committee of a political party.

"(b) PROHIBITED USE.—

"(1) IN GENERAL.—A contribution or donation described in subsection (a) shall not be converted by any person to personal use.

"(2) CONVERSION.—For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would

exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including—

"(A) a home mortgage, rent, or utility payment;

"(B) a clothing purchase;

"(C) a noncampaign-related automobile expense;

"(D) a country club membership;

"(E) a vacation or other noncampaign-related trip;

"(F) a household food item;

"(G) a tuition payment;

"(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

"(I) dues, fees, and other payments to a health club or recreational facility.".

SEC. 302. PROHIBITION OF FUNDRAISING ON FEDERAL PROPERTY.

Section 607 of title 18, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—

"(1) IN GENERAL.—It shall be unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any

room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.

"(2) PENALTY.—A person who violates this section shall be fined not more than $5,000, imprisoned not more than 3 years, or both.'; and

(2) in subsection (b), by inserting "or Executive Office of the President" after "Congress".

SEC. 303. STRENGTHENING FOREIGN MONEY BAN.

Section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e) is amended—

(1) by striking the heading and inserting the following: "CONTRIBUTIONS AND DONATIONS BY FOREIGN NATIONALS"; and

(2) by striking subsection (a) and inserting the following:

"(a) PROHIBITION.—It shall be unlawful for—

"(1) a foreign national, directly or indirectly, to make—

"(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

"(B) a contribution or donation to a committee of a political party; or

"(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or

"(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.".

SEC. 304. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS FOR INDIVIDUALS.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a) is amended—

(1) in subsection (a)(1), by striking "No person" and inserting "Except as provided in subsection (i), no person"; and

(2) by adding at the end the following:

"(i) INCREASED LIMIT TO ALLOW RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.—

"(1) INCREASE.—

"(A) IN GENERAL.—Subject to paragraph (2), if the opposition personal funds amount with respect to a candidate for election to the office of Senator exceeds the threshold amount, the limit under subsection (a)(1)(A) (in this subsection referred to as the 'applicable limit') with respect to that candidate shall be the increased limit.

"(B) THRESHOLD AMOUNT.—

"(i) STATE-BY-STATE COMPETITIVE AND FAIR CAMPAIGN FORMULA.—In this subsection, the threshold amount with respect to an election cycle of a candidate described in subparagraph (A) is an amount equal to the sum of—

"(I) $150,000; and

"(II) $0.04 multiplied by the voting age population.

"(ii) VOTING AGE POPULATION.—In this subparagraph, the term 'voting age population' means in the case of a candidate for the office of Senator, the voting age population of the State of the candidate (as certified under section 315(e)).

"(C) INCREASED LIMIT.—Except as provided in clause (ii), for purposes of subparagraph (A), if the opposition personal funds amount is over—

"(i) 2 times the threshold amount, but not over 4 times that amount—

"(I) the increased limit shall be 3 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution;

"(ii) 4 times the threshold amount, but not over 10 times that amount—

"(I) the increased limit shall be 6 times the applicable limit; and

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(iii) 10 times the threshold amount—

"(I) the increased limit shall be 6 times the applicable limit;

"(II) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to a candidate if such contribution is made under the increased limit of subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(III) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party shall not apply.

"(D) OPPOSITION PERSONAL FUNDS AMOUNT.—The opposition personal funds amount is an amount equal to the excess (if any) of—

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in section 304(a)(6)(B)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(2) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

"(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

"(i) until the candidate has received notification of the opposition personal funds amount under section 304(a)(6)(B); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 110 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate's authorized committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(3) DISPOSAL OF EXCESS CONTRIBUTIONS.—

"(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS.--A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(j) LIMITATION ON REPAYMENT OF PERSONAL LOANS.—Any candidate who incurs personal loans made after the effective date of the Bipartisan Campaign Reform Act of 2002 in connection with the candidate's campaign for election shall not repay (directly or indirectly), to the extent such loans exceed $250,000, such loans from any contributions made to such candidate or any authorized committee of such candidate after the date of such election.".

(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—Section 304(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(6)) is amended—

(1) by redesignating subparagraph (B) as subparagraph (E); and

(2) by inserting after subparagraph (A) the following:

"(B) NOTIFICATION OF EXPENDITURE FROM PERSONAL FUNDS.—

"(i) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this subparagraph, the term 'expenditure from personal funds' means—

"(I) an expenditure made by a candidate using personal funds; and

"(II) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(ii) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Senator, the candidate shall file a declaration stating the total amount of expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed the State-by- State competitive and fair campaign formula with—

"(I) the Commission; and

"(II) each candidate in the same election.

"(iii) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in clause (ii) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of 2 times the threshold amount in connection with any election, the candidate shall file a notification with—

"(I) the Commission; and

"(II) each candidate in the same election.

"(iv) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under clause (iii), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceed $10,000 with—

"(I) the Commission; and

"(II) each candidate in the same election.

Such notification shall be filed not later than 24 hours after the expenditure is made.

"(v) CONTENTS.—A notification under clause (iii) or (iv) shall include—

"(I) the name of the candidate and the office sought by the candidate;

"(II) the date and amount of each expenditure; and

"(III) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(C) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under paragraph (1) of section 315(i)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(D) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this paragraph, see section 309.".

(c) DEFINITIONS.—Section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431), as amended by section 101(b), is further amended by adding at the end the following:

"(25) ELECTION CYCLE.—For purposes of sections 315(i) and 315A and paragraph (26), the term 'election cycle' means the period beginning on the day after the date of the most recent election for the specific office or seat that a candidate is seeking and ending on the date of the next election for that office or seat. For purposes of

the preceding sentence, a primary election and a general election shall be considered to be separate elections.

"(26) PERSONAL FUNDS.—The term 'personal funds' means an amount that is derived from—

"(A) any asset that, under applicable State law, at the time the individual became a candidate, the candidate had legal right of access to or control over, and with respect to which the candidate had—

"(i) legal and rightful title; or

"(ii) an equitable interest;

"(B) income received during the current election cycle of the candidate, including—

"(i) a salary and other earned income from bona fide employment;

"(ii) dividends and proceeds from the sale of the candidate's stocks or other investments;

"(iii) bequests to the candidate;

"(iv) income from trusts established before the beginning of the election cycle;

"(v) income from trusts established by bequest after the beginning of the election cycle of which the candidate is the beneficiary;

"(vi) gifts of a personal nature that had been customarily received by the candidate prior to the beginning of the election cycle; and

"(vii) proceeds from lotteries and similar legal games of chance; and

"(C) a portion of assets that are jointly owned by the candidate and the candidate's spouse equal to the candidate's share of the asset under the instrument of

conveyance or ownership, but if no specific share is indicated by an instrument of conveyance or ownership, the value of 1/2 of the property.".

SEC. 305. LIMITATION ON AVAILABILITY OF LOWEST UNIT CHARGE FOR FEDERAL CANDIDATES ATTACKING OPPOSITION.

(a) IN GENERAL.—Section 315(b) of the Communications Act of 1934 (47 U.S. C. 315(b)) is amended—

(1) by striking "(b) The charges" and inserting the following:

"(b) CHARGES.—

"(1) IN GENERAL.—The charges";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(3) by adding at the end the following:

"(2) CONTENT OF BROADCASTS.—

"(A) IN GENERAL.—In the case of a candidate for Federal office, such candidate shall not be entitled to receive the rate under paragraph (1)(A) for the use of any broadcasting station unless the candidate provides written certification to the broadcast station that the candidate (and any authorized committee of the candidate) shall not make any direct reference to another candidate for the same office, in any broadcast using the rights and conditions of access under this Act, unless such reference meets the requirements of subparagraph (C) or (D).

"(B) LIMITATION ON CHARGES.—If a candidate for Federal office (or any authorized committee of such candidate) makes a reference described in subparagraph (A) in any broadcast that does not meet the requirements of subparagraph (C) or (D), such candidate shall not be entitled to receive the rate under paragraph (1)(A) for such broadcast or

any other broadcast during any portion of the 45-day and 60-day periods described in paragraph (1)(A), that occur on or after the date of such broadcast, for election to such office.

"(C) TELEVISION BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a television broadcast, at the end of such broadcast there appears simultaneously, for a period no less than 4 seconds—

"(i) a clearly identifiable photographic or similar image of the candidate; and

"(ii) a clearly readable printed statement, identifying the candidate and stating that the candidate has approved the broadcast and that the candidate's authorized committee paid for the broadcast.

"(D) RADIO BROADCASTS.—A candidate meets the requirements of this subparagraph if, in the case of a radio broadcast, the broadcast includes a personal audio statement by the candidate that identifies the candidate, the office the candidate is seeking, and indicates that the candidate has approved the broadcast.

"(E) CERTIFICATION.—Certifications under this section shall be provided and certified as accurate by the candidate (or any authorized committee of the candidate) at the time of purchase.

"(F) DEFINITIONS.—For purposes of this paragraph, the terms 'authorized committee' and 'Federal office' have the meanings given such terms by section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431).".

(b) CONFORMING AMENDMENT.—Section 315(b)(1)(A) of the Communications Act of 1934 (47 U.S.C. 315(b)(1)(A)), as amended by this Act, is amended by inserting "subject to paragraph (2)," before "during the forty-five days".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to broadcasts made after the effective date of this Act.

SEC. 306. SOFTWARE FOR FILING REPORTS AND PROMPT DISCLOSURE OF CONTRIBUTIONS.

Section 304(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)) is amended by adding at the end the following:

"(12) SOFTWARE FOR FILING OF REPORTS.—

"(A) IN GENERAL.—The Commission shall—

"(i) promulgate standards to be used by vendors to develop software that—

"(I) permits candidates to easily record information concerning receipts and disbursements required to be reported under this Act at the time of the receipt or disbursement;

"(II) allows the information recorded under subclause (I) to be transmitted immediately to the Commission; and

"(III) allows the Commission to post the information on the Internet immediately upon receipt; and

"(ii) make a copy of software that meets the standards promulgated under clause (i) available to each person required to file a designation, statement, or report in electronic form under this Act.

"(B) ADDITIONAL INFORMATION.—To the extent feasible, the Commission shall require vendors to include in the software developed under the standards under subparagraph (A) the ability for any person to file any designation, statement, or report required under this Act in electronic form.

"(C) REQUIRED USE.—Notwithstanding any provision of this Act relating to times for filing reports, each candidate for Federal office (or that candidate's authorized committee) shall use software that meets the standards promulgated under this paragraph once such software is made available to such candidate.

"(D) REQUIRED POSTING.—The Commission shall, as soon as practicable, post on the Internet any information received under this paragraph."

SEC. 307. MODIFICATION OF CONTRIBUTION LIMITS.

(a) INCREASE IN INDIVIDUAL LIMITS FOR CERTAIN CONTRIBUTIONS.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(1)) is amended—

(1) in subparagraph (A), by striking "$1,000" and inserting "$2,000"; and

(2) in subparagraph (B), by striking "$20,000" and inserting "$25,000".

(b) INCREASE IN ANNUAL AGGREGATE LIMIT ON INDIVIDUAL CONTRIBUTIONS.—Section 315(a)(3) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(3)) is amended to read as follows:

"(3) During the period which begins on January 1 of an odd-numbered year and ends on December 31 of the next even-numbered year, no individual may make contributions aggregating more than—

"(A) $37,500, in the case of contributions to candidates and the authorized committees of candidates;

"(B) $57,500, in the case of any other contributions, of which not more than $37,500 may be attributable to contributions to political committees which are not political committees of national political parties.".

(c) INCREASE IN SENATORIAL CAMPAIGN COMMITTEE LIMIT.—Section 315(h) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(h)) is amended by striking "$17,500" and inserting "$35,000".

(d) INDEXING OF CONTRIBUTION LIMITS.—Section 315(c) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(c)) is amended—

(1) in paragraph (1)—

(A) by striking the second and third sentences;

(B) by inserting "(A)" before "At the beginning"; and

(C) by adding at the end the following:

"(B) Except as provided in subparagraph (C), in any calendar year after 2002—

"(i) a limitation established by subsections (a)(1)(A), (a)(1)(B), (a)(3), (b), (d), or (h) shall be increased by the percent difference determined under subparagraph (A);

"(ii) each amount so increased shall remain in effect for the calendar year; and

"(iii) if any amount after adjustment under clause (i) is not a multiple of $100, such amount shall be rounded to the nearest multiple of $100.

"(C) In the case of limitations under subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), increases shall only be made in odd-numbered years and such increases shall remain in effect for the 2-year period beginning on the first day following the date of the last general election in the year preceding the year in which the amount is increased and ending on the date of the next general election."; and

(2) in paragraph (2)(B), by striking "means the calendar year 1974" and inserting "means—

"(i) for purposes of subsections (b) and (d), calendar year 1974; and

"(ii) for purposes of subsections (a)(1)(A), (a)(1)(B), (a)(3), and (h), calendar year 2001".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions made on or after January 1, 2003.

SEC. 308. DONATIONS TO PRESIDENTIAL INAUGURAL COMMITTEE.

(a) IN GENERAL.—Chapter 5 of title 36, United States Code, is amended by—

(1) redesignating section 510 as section 511; and

(2) inserting after section 509 the following:

"§ 510. Disclosure of and prohibition on certain donations

"(a) IN GENERAL.—A committee shall not be considered to be the Inaugural Committee for purposes of this chapter unless the committee agrees to, and meets, the requirements of subsections (b) and (c).

"(b) DISCLOSURE.—

"(1) IN GENERAL.—Not later than the date that is 90 days after the date of the Presidential inaugural ceremony, the committee shall file a report with the Federal Election Commission disclosing any donation of money or anything of value made to the committee in an aggregate amount equal to or greater than $200.

"(2) CONTENTS OF REPORT.—A report filed under paragraph (1) shall contain—

"(A) the amount of the donation;

"(B) the date the donation is received; and

"(C) the name and address of the person making the donation.

"(c) LIMITATION.—The committee shall not accept any donation from a foreign national (as defined in section 319(b) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b))).".

(b) REPORTS MADE AVAILABLE BY FEC.—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434), as amended by sections 103, 201, and 212 is amended by adding at the end the following.

"(h) REPORTS FROM INAUGURAL COMMITTEES.—The Federal Election Commission shall make any report filed by an Inaugural Committee under section 510 of title 36, United States Code, accessible to the public at the offices of the Commission and on the Internet not later than 48 hours after the report is received by the Commission.".

SEC. 309. PROHIBITION ON FRAUDULENT SOLICITATION OF FUNDS.

Section 322 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441h) is amended—

(1) by inserting "(a) IN GENERAL.—" before "No person"; and

(2) by adding at the end the following:

"(b) FRAUDULENT SOLICITATION OF FUNDS.—No person shall—

"(1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or

"(2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).".

SEC. 310. STUDY AND REPORT ON CLEAN MONEY CLEAN ELECTIONS LAWS.

(a) CLEAN MONEY CLEAN ELECTIONS DEFINED.—In this section, the term "clean money clean elections" means funds received under State laws that provide in whole or in part for the public financing of election campaigns.

(b) STUDY.—

(1) IN GENERAL.—The Comptroller General shall conduct a study of the clean money clean elections of Arizona and Maine.

(2) MATTERS STUDIED.—

(A) STATISTICS ON CLEAN MONEY CLEAN ELECTIONS CANDIDATES.—The Comptroller General shall determine—

(i) the number of candidates who have chosen to run for public office with clean money clean elections including—

(I) the office for which they were candidates;

(II) whether the candidate was an incumbent or a challenger; and

(III) whether the candidate was successful in the candidate's bid for public office; and

(ii) the number of races in which at least one candidate ran an election with clean money clean elections.

(B) EFFECTS OF CLEAN MONEY CLEAN ELECTIONS.—The Comptroller General of the United States shall describe the effects of public financing under the clean money clean elections laws on the 2000 elections in Arizona and Maine.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United

States shall submit a report to the Congress detailing the results of the study conducted under subsection (b).

SEC. 311. CLARITY STANDARDS FOR IDENTIFICATION OF SPONSORS OF ELECTION-RELATED ADVERTISING.

Section 318 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441d) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by striking "Whenever" and inserting "Whenever a political committee makes a disbursement for the purpose of financing any communication through any broadcasting station, newspaper, magazine, outdoor advertising facility, mailing, or any other type of general public political advertising, or whenever";

(ii) by striking "an expenditure" and inserting "a disbursement";

(iii) by striking "direct"; and

(iv) by inserting "or makes a disbursement for an electioneering communication (as defined in section 304(f)(3))" after "public political advertising"; and

(B) in paragraph (3), by inserting "and permanent street address, telephone number, or World Wide Web address" after "name"; and

(2) by adding at the end the following:

"(c) SPECIFICATION.—Any printed communication described in subsection (a) shall—

"(1) be of sufficient type size to be clearly readable by the recipient of the communication;

"(2) be contained in a printed box set apart from the other contents of the communication; and

"(3) be printed with a reasonable degree of color contrast between the background and the printed statement.

"(d) ADDITIONAL REQUIREMENTS.—

"(1) COMMUNICATIONS BY CANDIDATES OR AUTHORIZED PERSONS.—

"(A) BY RADIO.—Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through radio shall include, in addition to the requirements of that paragraph, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.

"(B) BY TELEVISION.—Any communication described in paragraph (1) or (2) of subsection (a) which is transmitted through television shall include, in addition to the requirements of that paragraph, a statement that identifies the candidate and states that the candidate has approved the communication. Such statement—

"(i) shall be conveyed by—

"(I) an unobscured, full-screen view of the candidate making the statement, or

"(II) the candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

"(ii) shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.

"(2) COMMUNICATIONS BY OTHERS.—Any communication described in paragraph (3) of subsection (a) which is transmitted through radio or television shall include,

in addition to the requirements of that paragraph, in a clearly spoken manner, the following audio statement: '_____ is responsible for the content of this advertising.' (with the blank to be filled in wi'h the name of the political committee or other person paying for the communication and the name of any connected organization of the payor). If transmitted through television, the statement shall be conveyed by an unobscured, full- screen view of a representative of the political committee or other person making the statement, or by a representative of such political committee or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least 4 seconds.".

SEC. 312. INCREASE IN PENALTIES.

(a) IN GENERAL.—Subparagraph (A) of section 309(d)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(d)(1)(A)) is amended to read as follows:

"(A) Any person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure—

"(i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or

"(ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, or imprisoned for not more than 1 year, or both.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 313. STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Section 406(a) of the Federal Election Campaign Act of 1971 (2 U.S.C. 455(a)) is amended by striking "3" and inserting "5".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to violations occurring on or after the effective date of this Act.

SEC. 314. SENTENCING GUIDELINES.

(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Election Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Election Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS.—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

(c) EFFECTIVE DATE; EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—

(1) EFFECTIVE DATE.—Notwithstanding section 402, the United States Sentencing Commission shall promulgate guidelines under this section not later than the later of—

(A) 90 days after the effective date of this Act; or

(B) 90 days after the date on which at least a majority of the members of the Commission are appointed and holding office.

(2) EMERGENCY AUTHORITY TO PROMULGATE GUIDELINES.—The Commission shall promulgate guidelines under this section in accordance with the procedures set forth in section 21(a) of the Sentencing Reform Act of 1987, as though the authority under such Act has not expired.

SEC. 315. INCREASE IN PENALTIES IMPOSED FOR VIOLATIONS OF CONDUIT CONTRIBUTION BAN.

(a) INCREASE IN CIVIL MONEY PENALTY FOR KNOWING AND WILLFUL VIOLATIONS.—Section 309(a) of the Federal Election Campaign Act of 1971 (2 U. S.C. 437g(a)) is amended—

(1) in paragraph (5)(B), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)"; and

(2) in paragraph (6)(C), by inserting before the period at the end the following: "(or, in the case of a violation of section 320, which is not less than 300 percent of the amount involved in the violation and is not more than the greater of $50,000 or 1,000 percent of the amount involved in the violation)".

(b) INCREASE IN CRIMINAL PENALTY.—Section 309(d)(1) of such Act (2 U.S.C. 437g(d)(1)) is amended by adding at the end the following new subparagraph:

"(D) Any person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be—

"(i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more);

"(ii) fined not less than 300 percent of the amount involved in the violation and not more than the greater of—

"(I) $50,000; or

"(II) 1,000 percent of the amount involved in the violation; or

"(iii) both imprisoned under clause (i) and fined under clause (ii).".

(c) EFFECTIVE DATE.--The amendments made by this section shall apply with respect to violations occurring on or after the effective date of this Act.

SEC. 316. RESTRICTION ON INCREASED CONTRIBUTION LIMITS BY TAKING INTO ACCOUNT CANDIDATE'S AVAILABLE FUNDS.

Section 315(i)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(i)(1)), as added by this Act, is amended by adding at the end the following:

"(E) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS.—

"(i) IN GENERAL.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (D)(ii), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE.—For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of—

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and

December 31 of the year preceding the year in which a general election is held.".

SEC. 317. CLARIFICATION OF RIGHT OF NATIONALS OF THE UNITED STATES TO MAKE POLITICAL CONTRIBUTIONS.

Section 319(b)(2) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441e(b)(2)) is amended by inserting after "United States" the following: "or a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act)".

SEC. 318. PROHIBITION OF CONTRIBUTIONS BY MINORS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.), as amended by section 101, is further amended by adding at the end the following new section:

"PROHIBITION OF CONTRIBUTIONS BY MINORS

"SEC. 324. An individual who is 17 years old or younger shall not make a contribution to a candidate or a contribution or donation to a committee of a political party.".

SEC. 319. MODIFICATION OF INDIVIDUAL CONTRIBUTION LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO EXPENDITURES FROM PERSONAL FUNDS.

(a) INCREASED LIMITS.—Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by inserting after section 315 the following new section:

"MODIFICATION OF CERTAIN LIMITS FOR HOUSE CANDIDATES IN RESPONSE TO PERSONAL FUND EXPENDITURES OF OPPONENTS

"SEC. 315A. (a) AVAILABILITY OF INCREASED LIMIT.—

"(1) IN GENERAL.—Subject to paragraph (3), if the opposition personal funds amount with respect to a candidate for election to the office of Representative in, or Delegate or Resident Commissioner to, the Congress exceeds $350,000—

"(A) the limit under subsection (a)(1)(A) with respect to the candidate shall be tripled;

"(B) the limit under subsection (a)(3) shall not apply with respect to any contribution made with respect to the candidate if the contribution is made under the increased limit allowed under subparagraph (A) during a period in which the candidate may accept such a contribution; and

"(C) the limits under subsection (d) with respect to any expenditure by a State or national committee of a political party on behalf of the candidate shall not apply.

"(2) DETERMINATION OF OPPOSITION PERSONAL FUNDS AMOUNT.—

"(A) IN GENERAL.--The opposition personal funds amount is an amount equal to the excess (if any) of—

"(i) the greatest aggregate amount of expenditures from personal funds (as defined in subsection (b)(1)) that an opposing candidate in the same election makes; over

"(ii) the aggregate amount of expenditures from personal funds made by the candidate with respect to the election.

"(B) SPECIAL RULE FOR CANDIDATE'S CAMPAIGN FUNDS.—

"(i) IN GENERAL.—For purposes of determining the aggregate amount of expenditures from personal funds under subparagraph (A), such amount shall include the gross receipts advantage of the candidate's authorized committee.

"(ii) GROSS RECEIPTS ADVANTAGE.—For purposes of clause (i), the term 'gross receipts advantage' means the excess, if any, of—

"(I) the aggregate amount of 50 percent of gross receipts of a candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held, over

"(II) the aggregate amount of 50 percent of gross receipts of the opposing candidate's authorized committee during any election cycle (not including contributions from personal funds of the candidate) that may be expended in connection with the election, as determined on June 30 and December 31 of the year preceding the year in which a general election is held.

"(3) TIME TO ACCEPT CONTRIBUTIONS UNDER INCREASED LIMIT.—

"(A) IN GENERAL.—Subject to subparagraph (B), a candidate and the candidate's authorized committee shall not accept any contribution, and a party committee shall not make any expenditure, under the increased limit under paragraph (1)—

"(i) until the candidate has received notification of the opposition personal funds amount under subsection (b)(1); and

"(ii) to the extent that such contribution, when added to the aggregate amount of contributions previously accepted and party expenditures previously made under the increased limits under this subsection for the election cycle, exceeds 100 percent of the opposition personal funds amount.

"(B) EFFECT OF WITHDRAWAL OF AN OPPOSING CANDIDATE.—A candidate and a candidate's authorized

committee shall not accept any contribution and a party shall not make any expenditure under the increased limit after the date on which an opposing candidate ceases to be a candidate to the extent that the amount of such increased limit is attributable to such an opposing candidate.

"(4) DISPOSAL OF EXCESS CONTRIBUTIONS.—

"(A) IN GENERAL.—The aggregate amount of contributions accepted by a candidate or a candidate's authorized committee under the increased limit under paragraph (1) and not otherwise expended in connection with the election with respect to which such contributions relate shall, not later than 50 days after the date of such election, be used in the manner described in subparagraph (B).

"(B) RETURN TO CONTRIBUTORS.—A candidate or a candidate's authorized committee shall return the excess contribution to the person who made the contribution.

"(b) NOTIFICATION OF EXPENDITURES FROM PERSONAL FUNDS.—

"(1) IN GENERAL.—

"(A) DEFINITION OF EXPENDITURE FROM PERSONAL FUNDS.—In this paragraph, the term 'expenditure from personal funds' means—

"(i) an expenditure made by a candidate using personal funds; and

"(ii) a contribution or loan made by a candidate using personal funds or a loan secured using such funds to the candidate's authorized committee.

"(B) DECLARATION OF INTENT.—Not later than the date that is 15 days after the date on which an individual becomes a candidate for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, the candidate shall file a declaration stating the total amount of

expenditures from personal funds that the candidate intends to make, or to obligate to make, with respect to the election that will exceed $350,000.

"(C) INITIAL NOTIFICATION.—Not later than 24 hours after a candidate described in subparagraph (B) makes or obligates to make an aggregate amount of expenditures from personal funds in excess of $350,000 in connection with any election, the candidate shall file a notification.

"(D) ADDITIONAL NOTIFICATION.—After a candidate files an initial notification under subparagraph (C), the candidate shall file an additional notification each time expenditures from personal funds are made or obligated to be made in an aggregate amount that exceeds $10,000. Such notification shall be filed not later than 24 hours after the expenditure is made.

"(E) CONTENTS.—A notification under subparagraph (C) or (D) shall include—

"(i) the name of the candidate and the office sought by the candidate;

"(ii) the date and amount of each expenditure; and

"(iii) the total amount of expenditures from personal funds that the candidate has made, or obligated to make, with respect to an election as of the date of the expenditure that is the subject of the notification.

"(F) PLACE OF FILING.—Each declaration or notification required to be filed by a candidate under subparagraph (C), (D), or (E) shall be filed with—

"(i) the Commission; and

"(ii) each candidate in the same election and the national party of each such candidate.

"(2) NOTIFICATION OF DISPOSAL OF EXCESS CONTRIBUTIONS.—In the next regularly scheduled report after

the date of the election for which a candidate seeks nomination for election to, or election to, Federal office, the candidate or the candidate's authorized committee shall submit to the Commission a report indicating the source and amount of any excess contributions (as determined under subsection (a)) and the manner in which the candidate or the candidate's authorized committee used such funds.

"(3) ENFORCEMENT.—For provisions providing for the enforcement of the reporting requirements under this subsection, see section 309.".

(b) CONFORMING AMENDMENT.—Section 315(a)(1) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by section 304(a), is amended by striking "subsection (i)," and inserting "subsection (i) and section 315A,".

TITLE IV—SEVERABILITY; EFFECTIVE DATE

SEC. 401. SEVERABILITY.

If any provision of this Act or amendment made by this Act, or the application of a provision or amendment to any person or circumstance, is held to be unconstitutional, the remainder of this Act and amendments made by this Act, and the application of the provisions and amendment to any person or circumstance, shall not be affected by the holding.

SEC. 402. EFFECTIVE DATES AND REGULATIONS.

(a) GENERAL EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in the succeeding provisions of this section, the effective date of this Act, and the amendments made by this Act, is November 6, 2002.

(2) MODIFICATION OF CONTRIBUTION LIMITS.—The amendments made by—

(A) section 102 shall apply with respect to contributions made on or after January 1, 2003; and

(B) section 307 shall take effect as provided in subsection (e) of such section.

(3) SEVERABILITY; EFFECTIVE DATES AND REGULATIONS; JUDICIAL REVIEW.—Title IV shall take effect on the date of enactment of this Act.

(4) PROVISIONS NOT TO APPLY TO RUNOFF ELECTIONS.—Section 323(b) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), section 103(a), title II, sections 304 (including section 315(j) of Federal Election Campaign Act of 1971, as added by section 304(a)(2)), 305 (notwithstanding subsection (c) of such section), 311, 316, 318, and 319, and title V (and the amendments made by such sections and titles) shall take effect on November 6, 2002, but shall not apply with respect to runoff elections, recounts, or election contests resulting from elections held prior to such date.

(b) SOFT MONEY OF NATIONAL POLITICAL PARTIES.—

(1) IN GENERAL.—Except for subsection (b) of such section, section 323 of the Federal Election Campaign Act of 1971 (as added by section 101(a)) shall take effect on November 6, 2002.

(2) TRANSITIONAL RULES FOR THE SPENDING OF SOFT MONEY OF NATIONAL POLITICAL PARTIES.—

(A) IN GENERAL.—Notwithstanding section 323(a) of the Federal Election Campaign Act of 1971 (as added by section 101(a)), if a national committee of a political party described in such section (including any person who is subject to such section under paragraph (2) of such section), has received funds described in such section prior to November 6, 2002, the rules described in subparagraph (B) shall apply with respect to the spending of the amount of such funds in the possession of such committee as of such date.

(B) USE OF EXCESS SOFT MONEY FUNDS.—

(i) IN GENERAL.—Subject to clauses (ii) and (iii), the national committee of a political party may use the amount described in subparagraph (A) prior to January 1, 2003, solely for the purpose of—

(I) retiring outstanding debts or obligations that were incurred solely in connection with an election held prior to November 6, 2002; or

(II) paying expenses or retiring outstanding debts or paying for obligations that were incurred solely in connection with any runoff election, recount, or election contest resulting from an election held prior to November 6, 2002.

(ii) PROHIBITION ON USING SOFT MONEY FOR HARD MONEY EXPENSES, DEBTS, AND OBLIGATIONS.—A national committee of a political party may not use the amount described in subparagraph (A) for any expenditure (as defined in section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9))) or for retiring outstanding debts or obligations that were incurred for such an expenditure.

(iii) PROHIBITION OF BUILDING FUND USES.—A national committee of a political party may not use the amount described in subparagraph (A) for activities to defray the costs of the construction or purchase of any office building or facility.

(c) REGULATIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Federal Election Commission shall promulgate regulations to carry out this Act and the amendments made by this Act that are under the Commission's jurisdiction not later than 270 days after the date of enactment of this Act.

(2) SOFT MONEY OF POLITICAL PARTIES.—Not later than 90 days after the date of enactment of this Act, the Federal Election Commission shall promulgate regulations to carry out title I of this Act and the amendments made by such title.

SEC. 403. JUDICIAL REVIEW.

(a) SPECIAL RULES FOR ACTIONS BROUGHT ON CONSTITUTIONAL GROUNDS.—If any action is brought for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act, the following rules shall apply:

(1) The action shall be filed in the United States District Court for the District of Columbia and shall be heard by a 3-judge court convened pursuant to section 2284 of title 28, United States Code.

(2) A copy of the complaint shall be delivered promptly to the Clerk of the House of Representatives and the Secretary of the Senate.

(3) A final decision in the action shall be reviewable only by appeal directly to the Supreme Court of the United States. Such appeal shall be taken by the filing of a notice of appeal within 10 days, and the filing of a jurisdictional statement within 30 days, of the entry of the final decision.

(4) It shall be the duty of the United States District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of the action and appeal.

(b) INTERVENTION BY MEMBERS OF CONGRESS.—In any action in which the constitutionality of any provision of this Act or any amendment made by this Act is raised (including but not limited to an action described in subsection (a)), any member of the House of Representatives

(including a Delegate or Resident Commissioner to the Congress) or Senate shall have the right to intervene either in support of or opposition to the position of a party to the case regarding the constitutionality of the provision or amendment. To avoid duplication of efforts and reduce the burdens placed on the parties to the action, the court in any such action may make such orders as it considers necessary, including orders to require intervenors taking similar positions to file joint papers or to be represented by a single attorney at oral argument.

(c) CHALLENGE BY MEMBERS OF CONGRESS.—Any Member of Congress may bring an action, subject to the special rules described in subsection (a), for declaratory or injunctive relief to challenge the constitutionality of any provision of this Act or any amendment made by this Act.

(d) APPLICABILITY.—

(1) INITIAL CLAIMS.—With respect to any action initially filed on or before December 31, 2006, the provisions of subsection (a) shall apply with respect to each action described in such section.

(2) SUBSEQUENT ACTIONS.—With respect to any action initially filed after December 31, 2006, the provisions of subsection (a) shall not apply to any action described in such section unless the person filing such action elects such provisions to apply to the action.

TITLE V—ADDITIONAL DISCLOSURE PROVISIONS

SEC. 501. INTERNET ACCESS TO RECORDS.

Section 304(a)(11)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(a)(11)(B)) is amended to read as follows:

"(B) The Commission shall make a designation, statement, report, or notification that is filed with the Commission under this Act available for inspection by the public in the offices of the Commission and accessible to the

public on the Internet not later than 48 hours (or not later than 24 hours in the case of a designation, statement, report, or notification filed electronically) after receipt by the Commission.".

SEC. 502. MAINTENANCE OF WEBSITE OF ELECTION REPORTS.

(a) IN GENERAL.—The Federal Election Commission shall maintain a central site on the Internet to make accessible to the public all publicly available election-related reports and information.

(b) ELECTION-RELATED REPORT.—In this section, the term "election-related report" means any report, designation, or statement required to be filed under the Federal Election Campaign Act of 1971.

(c) COORDINATION WITH OTHER AGENCIES.—Any Federal executive agency receiving election-related information which that agency is required by law to publicly disclose shall cooperate and coordinate with the Federal Election Commission to make such report available through, or for posting on, the site of the Federal Election Commission in a timely manner.

SEC. 503. ADDITIONAL DISCLOSURE REPORTS.

(a) PRINCIPAL CAMPAIGN COMMITTEES.—Section 304(a)(2)(B) of the Federal Election Campaign Act of 1971 is amended by striking "the following reports" and all that follows through the period and inserting "the treasurer shall file quarterly reports, which shall be filed not later than the 15th day after the last day of each calendar quarter, and which shall be complete as of the last day of each calendar quarter, except that the report for the quarter ending December 31 shall be filed not later than January 31 of the following calendar year.".

(b) NATIONAL COMMITTEE OF A POLITICAL PARTY.—Section 304(a)(4) of such Act (2 U.S.C. 434(a)(4)) is amended by adding at the end the following flush sentence: "Notwithstanding the preceding sentence, a national committee of a political party shall file the reports required under subparagraph (B).".

SEC. 504. PUBLIC ACCESS TO BROADCASTING RECORDS.

Section 315 of the Communications Act of 1934 (47 U.S.C. 315), as amended by this Act, is amended by redesignating subsections (e) and (f) as subsections (f) and (g), respectively, and inserting after subsection (d) the following:

"(e) POLITICAL RECORD.—

"(1) IN GENERAL.—A licensee shall maintain, and make available for public inspection, a complete record of a request to purchase broadcast time that—

"(A) is made by or on behalf of a legally qualified candidate for public office; or

"(B) communicates a message relating to any political matter of national importance, including—

"(i) a legally qualified candidate;

"(ii) any election to Federal office; or

"(iii) a national legislative issue of public importance.

"(2) CONTENTS OF RECORD.—A record maintained under paragraph (1) shall contain information regarding—

"(A) whether the request to purchase broadcast time is accepted or rejected by the licensee;

"(B) the rate charged for the broadcast time;

"(C) the date and time on which the communication is aired;

"(D) the class of time that is purchased;

"(E) the name of the candidate to which the communication refers and the office to which the candidate is seeking election, the election to which the communication refers, or the issue to which the communication refers (as applicable);

"(F) in the case of a request made by, or on behalf of, a candidate, the name of the candidate, the authorized committee of the candidate, and the treasurer of such committee; and

"(G) in the case of any other request, the name of the person purchasing the time, the name, address, and phone number of a contact person for such person, and a list of the chief executive officers or members of the executive committee or of the board of directors of such person.

"(3) TIME TO MAINTAIN FILE.—The information required under this subsection shall be placed in a political file as soon as possible and shall be retained by the licensee for a period of not less than 2 years.".

Approved March 27, 2002.

Supreme Court, U.S.
FILED
JUN 4 2003
OFFICE OF THE CLERK

No. 02-1756

In the Supreme Court of the United States

CHAMBER OF COMMERCE OF THE UNITED STATES, ET AL., APPELLANTS

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.

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QUESTION PRESENTED

In 2002, the President signed into law the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. BCRA is designed to address various abuses associated with the financing of federal election campaigns and thereby protect the integrity of the federal electoral process. The questions presented by this appeal are as follows:

1. Whether BCRA's funding limitations and disclosure requirements pertaining to "electioneering communications" are constitutional.

2. Whether Section 202 of BCRA, which provides that an "electioneering communication" that is coordinated with a candidate or political party shall be treated as a contribution to the candidate or political party, is constitutional.

3. Whether appellants' challenge to Section 214(a)-(c) of BCRA, which states that expenditures coordinated with a political party shall be treated as contributions to the party (§ 214(a), 116 Stat. 94); directs the Federal Election Commission to promulgate new regulations governing "coordinated communications" (§ 214(b), 116 Stat. 94); and provides that those regulations "shall not require agreement or formal collaboration to establish coordination" (§ 214(c), 116 Stat. 95); is justiciable at this time.

4. Whether Section 214(a)-(c) of BCRA is constitutional.

In the Supreme Court of the United States

No. 02-1756

CHAMBER OF COMMERCE OF THE UNITED STATES, ET AL., APPELLANTS

v.

FEDERAL ELECTION COMMISSION, ET AL.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF APPELLEES FEDERAL ELECTION COMMISSION, ET AL.[1]

OPINIONS BELOW

The opinions of the district court are not yet reported.

JURISDICTION

The judgment of the district court was entered on May 2, 2003. Appellants' notice of appeal (J.S. App. 1a-

[1] This response is filed on behalf of the Federal Election Commission (FEC) and David M. Mason, Ellen L. Weintraub, Danny L. McDonald, Bradley A. Smith, Scott E. Thomas, and Michael E. Toner, in their capacities as Commissioners of the FEC; John Ashcroft, in his capacity as Attorney General of the United States; the United States Department of Justice; the Federal Communications Commission; and the United States of America. Those parties are appellants in *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676.

2a) was filed on May 7, 2003. Appellants' jurisdictional statement was filed on June 2, 2003. The jurisdiction of this Court is invoked under the Bipartisan Campaign Reform Act of 2002, Pub. L. No. 107-155, § 403(a)(3), 116 Stat. 114.

STATEMENT

This case presents a facial challenge to the constitutionality of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81. A three-judge panel of the District Court for the District of Columbia held that several provisions of BCRA violate the First Amendment to the Constitution, while sustaining other BCRA provisions against various constitutional challenges. The district court also held that the plaintiffs' challenges to certain BCRA provisions are not justiciable in this suit. Congress has vested this Court with direct appellate jurisdiction over the district court's decision. See BCRA § 403(a)(3), 116 Stat. 114.

Appellants challenge various rulings of the district court that (a) rejected some of appellants' constitutional challenges on the merits, or (b) held certain of their claims to be non-justiciable. As of this date, 11 other jurisdictional statements arising out of the same district court judgment are pending before this Court. See *Mitch McConnell, United States Senator* v. *Federal Election Commission*, No. 02-1674; *National Rifle Association* v. *Federal Election Commission*, No. 02-1675; *Federal Election Commission* v. *Mitch McConnell, United States Senator*, No. 02-1676 (see note 1, *supra*); *John McCain, United States Senator* v. *Mitch McConnell, United States Senator*, No. 02-1702; *Republican National Committee* v. *Federal Election Commission*, No. 02-1727; *National Right to Life Committee, Inc.* v. *Federal Election Commission*, No.

02-1733; *American Civil Liberties Union* v. *Federal Election Commission*, No. 02-1734; *Victoria Jackson Gray Adams* v. *Federal Election Commission*, No. 02-1740; *Congressman Ron Paul* v. *Federal Election Commission*, No. 02-1747; *California Democratic Party* v. *Federal Election Commission*, No. 02-1753; *AFL-CIO* v. *Federal Election Commission*, No. 02-1755.

DISCUSSION

Under Section 403(a)(3) of BCRA, the final decision of the district court in this case is "reviewable only by appeal directly to the Supreme Court of the United States." 116 Stat. 114. Pursuant to Section 403(a)(4) of BCRA, this Court is directed "to advance on the docket and to expedite to the greatest possible extent the disposition of the * * * appeal." 116 Stat. 114. In addition to filing our own jurisdictional statement (see note 1, *supra*) to appeal the district court's rulings declaring certain provisions of BCRA to be invalid, appellees will defend on appeal those provisions of the statute that were sustained against appellants' constitutional challenges. Appellees agree, however, that appellants' jurisdictional statement identifies substantial questions of federal law and that this Court should note probable jurisdiction over the appeal.[2]

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[2] On May 23, 2003, appellees filed a motion for expedited briefing schedule applicable to all then-pending appeals (see pp. 2-3, *supra*) from the district court's judgment in this case. That briefing schedule should also be made applicable to the instant appeal.

CONCLUSION

The Court should note probable jurisdiction.

Respectfully submitted.

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JUNE 2003

Nos. 02-1734, 02-1755, and 02-1756

Supreme Court, U.S.
FILED
JUN 3 - 2003
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

AMERICAN CIVIL LIBERTIES UNION,
Appellant,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Appellees.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS, *et al.*,
Appellants,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Appellees.

CHAMBER OF COMMERCE OF THE UNITED STATES, *et al.*,
Appellants,

v.

FEDERAL ELECTION COMMISSION, *et al.*,
Appellees.

On Appeals from the United States District Court
for the District of Columbia

INTERVENOR-APPELLEES' RESPONSE TO JURISDICTIONAL STATEMENTS

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QUESTIONS PRESENTED

1. Whether the Court should summarily dispose of appellants' constitutional challenges to Sections 214(a), 214(b), and 214(c) of the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81, because those challenges are plainly nonjusticiable or insubstantial under settled law.

2. Whether, in other respects, the Court should note probable jurisdiction over appellants' constitutional challenges to BCRA, and set the appeals on those issues for briefing and oral argument.

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INTERVENOR-APPELLEES' RESPONSE TO JURISDICTIONAL STATEMENTS

Although intervenor-appellees take issue with the positions taken on the merits by the American Civil Liberties Union (ACLU), the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), *et al.*, and the Chamber of Commerce of the United States (Chamber), *et al.*, in their jurisdictional statements, we agree that many of the questions presented in their jurisdictional statements warrant plenary consideration by this Court. Some of the questions presented in these jurisdictional statements, however, do not warrant plenary consideration by this Court, because they are clearly nonjusticiable under well-settled principles of constitutional and administrative law, or are otherwise so insubstantial as not to justify further briefing and argument. As we have shown in our prior responses to other jurisdictional statements filed in these cases, it is entirely appropriate for the Court to summarily dispose of appeals by dismissal or affirmance, insofar as they seek to raise issues that are nonjusticiable or insubstantial. Such summary dispositions would focus the briefing in this Court on those issues that do warrant the Court's plenary consideration, and would promote the orderly and expedited resolution of the various pending challenges to the Bipartisan Campaign Reform Act of 2002 (BCRA), Pub. L. No. 107-155, 116 Stat. 81.

ARGUMENT

I. THE AFL-CIO AND CHAMBER APPELLANTS FAIL TO RAISE SUBSTANTIAL QUESTIONS WITH RESPECT TO BCRA SECTION 214(a)

Like the McConnell appellants, the AFL-CIO and Chamber appellants challenge BCRA Section 214(a), which extends the Federal Election Campaign Act's (FECA) longstanding regulation of coordination with candidates and candidate committees to include coordination with any "national, State, or local committee of a political party" as well. *See* AFL-CIO J.S. Question Presented 2 and pp. 7-8,

14-18; Chamber J.S. Question Presented 2 and pp. 2, 12, 25. As we have explained in our response to the McConnell jurisdictional statement (at 12-13), that challenge is plainly insubstantial. In Section 214(a), Congress simply took the same definition that has governed expenditures coordinated with political candidates for more than 25 years, and applied it to coordination with parties. Congress did so to prevent circumvention of FECA's contribution limits, a necessity long recognized by both this Court and Congress.[1] Congress has found that, to enforce those contribution limits effectively, it is necessary to apply the coordination regulations to coordination with both candidates and parties. There is no basis in law or the record to set aside this congressional judgment. As the district court majority emphasized, appellants "have provided no explanation as to why the application of this coordination formula to the context of political parties chills political speech any more than when applied to expenditures coordinated with political candidates." Supplemental Appendix to Jurisdictional Statement (JSSA) 137sa (per curiam).[2]

II. THE ACLU AND CHAMBER APPELLANTS FAIL TO RAISE JUSTICIABLE OR SUBSTANTIAL QUESTIONS WITH RESPECT TO THE COORDINATION RULEMAKING PROVISIONS OF BCRA SECTION 214(b)-(c)

Like the McConnell and RNC appellants, the ACLU and Chamber appellants challenge the coordination rulemaking provisions of BCRA Section 214(b)-(c). *See* ACLU J.S. Question Presented 2 and pp. 23-24; Chamber

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[1] *See FEC* v. *Colorado Republican Fed. Campaign Comm.*, 533 U.S. 431, 447, 464 (2001); *Buckley* v. *Valeo*, 424 U.S. 1, 46-47 & n.53, 78 (1976) (per curiam); 2 U.S.C. § 441a(a)(7)(B)(i).

[2] The AFL-CIO now seeks to supply this missing explanation by reasoning that the coordination formula was tolerable so long as it was limited to agreements and formal collaborations, but that once Section 214(c) was enacted, *all* rules dealing with coordination were rendered unconstitutional. *See* AFL-CIO J.S. 14 n.5, 15-16. This is not an argument against Section 214(a), but against Section 214(c). There are no substantial constitutional issues with respect to Section 214(a) itself.

J.S. Question Presented 2 and pp. 20-31. As we have explained in our response to the McConnell jurisdictional statement (at 7-12), these challenges to Section 214(b)-(c) fail under well-established principles of justiciability and subject-matter jurisdiction. There is no basis for a facial challenge to Sections 214(b) and (c), for those provisions merely repeal the Federal Election Commission's (FEC) prior rules on coordination and direct the FEC to promulgate new rules that "shall address" certain factors. Further, the special jurisdiction that Congress vested in the three-judge district court to entertain constitutional challenges to BCRA does not reach constitutional or statutory challenges to the FEC's new coordination regulations. Thus, if appellants are dissatisfied with the new rules on coordination, they must challenge those rules in an action for judicial review under the Administrative Procedure Act (APA), in which they may raise both constitutional and statutory challenges to the rules. The district court was therefore clearly correct in holding these claims to be nonjusticiable and beyond the subject-matter jurisdiction of the special three-judge district court conferred by BCRA Section 403(a). *See* JSSA 134-56sa (per curiam).

The ACLU maintains that its routine legislative activities on issues will somehow be jeopardized under the coordination provisions of BCRA, even though the ACLU "does not, and never has, coordinated its activities with elected officials for the purpose of influencing elections." ACLU J.S. 14. As we explain in our response to the McConnell jurisdictional statement (at 12 n.15), however, the new FEC rules contain an express safe harbor for legislative activity and lobbying. 11 C.F.R. § 109.21(f). That safe harbor is consistent with clear congressional intent not to reach routine legislative and lobbying activities, but rather to reach only campaign communications. *See* 148 Cong. Rec. S2145 (daily ed. Mar. 20, 2002) (statement of Sen. McCain). As the district court majority concluded, appellants' claim that their lobbying activities are imperiled is therefore

speculative at best, and are insufficient to meet Article III standing requirements. JSSA 147sa n.95 (per curiam).

The ACLU also contends that Section 214(c) "broadly deems any 'substantial discussion' about public communication between a candidate and an issue group as a basis for a finding of 'coordination,' " and maintains that a "substantial discussion" standard will act "as a continuing prior restraint which bars the ACLU from engaging in core First Amendment speech for [a] lawmaker's entire term of office." ACLU J.S. 23-24. That reading of Section 214(c) however, is plainly incorrect. Section 214(c)(4) merely provides that the new regulations to be promulgated by the FEC "shall address" the subject of "payments for communications made by a person after substantial discussion about the communication with a candidate or political party." A congressional instruction that an agency "address" an issue in rulemaking imposes no injury upon anyone. Any argument that the FEC's rules might have exceeded constitutional or statutory bounds on this point may and must be raised in an APA challenge to those rules.

The Chamber appellants argue that Congress's instruction to the FEC, in Section 214(c), that the new coordination rules "shall not require agreement or formal collaboration to establish coordination" is so broad that "[n]o element of agreement, formal or informal, express or implied, can be required" as a condition of finding coordination. Chamber J.S. 26. That argument was correctly rejected by the district court majority. Relying on familiar canons of statutory construction, the majority ruled that the term "agreement," when followed by the phrase "or formal collaboration," means only that the new FEC rules may not require "formal agreements" to establish coordination. JSSA 146-47sa n.94 (per curiam). That reading is faithful to Congress's intent to ensure that the new rules would reach "*de facto* and *informal* coordination"

as well as formal arrangements. *Id.*[3] Section 214(c) is thus entirely consistent with this Court's recognition that coordination includes "general . . . understanding[s]" and "wink or nod" arrangements. *Colorado Republican Fed. Campaign Comm.* v. *FEC*, 518 U.S. 604, 614 (1996) (plurality opinion); *see FEC* v. *Colorado Republican Fed. Campaign Comm.*, 533 U.S. 431, 442 (2001).

The Chamber appellants also seek to broaden these cases to encompass the validity of the FEC's new coordination regulations. Chamber J.S. 14, 26-30. As noted above, any challenge to those rules must be brought before a single-judge district court in an action under the APA. The Chamber's challenge to the rules is also insubstantial on the merits. The principal challenged rule is new 11 C.F.R. § 109.21(d)(1), which, the Chamber complains, "continues to include as 'coordinated' any independent speech 'at the *request or suggestion* of a candidate or an authorized committee, political party committee, or agent.'" Chamber J.S. 30 (emphasis added). In *Buckley* v. *Valeo*, 424 U.S. 1, 47 n.53 (1976) (per curiam), this Court approved a "request or suggestion" standard for coordination reflected in the legislative history of the 1974 FECA amendments, and Congress expressly adopted that standard in 1976 in reliance on *Buckley* (*see* 2 U.S.C. § 441a(a)(7)(B)(i)).[4]

CONCLUSION

The Court should summarily dispose of the ACLU, AFL-CIO, and Chamber appellants' challenges to Sections

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[3] *See* 148 Cong. Rec. S2145 (daily ed. Mar. 20, 2002) (statement of Sen. McCain) (intent is to reach "[i]nformal understandings and de facto arrangements [that] can result in actual coordination as effectively as explicit agreement or formal collaboration"); *id.* (statement of Sen. Feingold) (FEC's prior rule "sets too high a bar" and "would miss many cases of coordination that result from de facto understandings").

[4] That standard was approved again in the *Christian Coalition* district court decision upon which appellants otherwise rely, and indeed was part of the prior FEC rules that appellants are seeking to restore. *See FEC* v. *Christian Coalition*, 52 F. Supp. 2d 45, 91 (D.D.C. 1999); 11 C.F.R. § 100.23(c)(2)(i) (2002), *repealed by* BCRA § 214(b).

214(a), 214(b), and 214(c). In all other respects, the Court should note probable jurisdiction of the appeals in these cases and set the cases for plenary review.

Respectfully submitted,

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JUNE 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE -

Docket for 02-1733
No. 02-1733 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Right to Life Committee, Inc., et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

No. 02-1727 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Republican National Committee, et al., Appellants v. Federal Election Commission, et al. Docketed: May 28, 2003

REFER TO 02-1674, MCCONNELL V. FEDERAL ELECTION COMMITTEE, FOR DOCUMENTS LISTED ON DOCKET BUT NOT ON FICHE

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Docket for 02-1734
No. 02-1734 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: American Civil Liberties Union, Appellant v. Federal Election Commission, et al. Docketed: May 29, 2003 Lower

Docket for 02-1753
No. 02-1753 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1755, 02-1756 Title: California Democratic Party, et al., Appellants v. Federal Election Commission, et al. Docketed: June 2, 1003

Docket for 02-1755
No. 02-1755 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1756 Title: American Federation of Labor and Congress of Industrial Organizations, et al., Appellants v. Federal Election

Docket for 02-1756
No. 02-1756 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755 Title: Chamber of Commerce of the United States, et al., Appellants v. Federal Election Commission, et al. Docketed:

Docket for 02-1675
No. 02-1675 Status: GRANTED Vide 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: National Rifle Association, et al., Appellants v. Federal Election Commission, et al. Docketed: May 15, 2003

Docket for 02-1676
No. 02-1676 Status: GRANTED Vide 02-1675, 02-1674, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: Federal Election Commission, et al., Appellants v. Mitch McConnell, United States Senator, et al. Docketed: May

Docket for 02-1702
No. 02-1702 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1727, 02-1733, 02-1734, 02-1740, 02-1747, 02-1753, 02-1755, 02-1756 Title: John McCain, United States Senator, et al., Appellants v. Mitch McConnell, United States Senator, et al.

Docket for 02-1740

No. 02-1740 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1747, 02-1753, 02-1755, 02-1756 Title: Victoria Jackson Gray Adams, et al., Appellants v. Federal Election Commission, et al. Docketed: May 30, 2003

Docket for 02-1747

No. 02-1747 Status: GRANTED Vide 02-1675, 02-1674, 02-1676, 02-1702, 02-1727, 02-1733, 02-1734, 02-1740, 02-1753, 02-1755, 02-1756 Title: Ron Paul, United States Congressman, et al., Appellants v. Federal Election Commission, et al. Docketed: May

Docket for 02-1727

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